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No. 25] NEW DELHI, JUNE 15, 2014—JUNE 21, 2014, SATURDAY/JYAISTHA 25—JYAISTHA 31, 1936

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 11 जून, 2014

का.आ. 1738.—केंद्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तर प्रदेश राज्य सरकार, गृह (पुलिस) अनुभाग-12, लखनऊ की सहमति से दिनांक 3 जून, 2014 की अधिसूचना सं. 606/6-12-14-9(4)डी/14 के तहत पुलिस स्टेशन उसहैत, जिला बदायूं (उत्तर प्रदेश) के अधीन गांव कटरा में कुमारी मूर्ति और कुमारी पुष्पा के बलात्कार एवं हत्या के संबंध में पुलिस स्टेशन उसहैत, जिला बदायूं, उत्तर प्रदेश में दर्ज केस अपराध सं. 295/2014 के संबंध में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 376-डी/302/120-बी एवं लैंगिक अपराधों से बालकों का संरक्षण अधिनियम, 2012 (2012 का अधिनियम सं. 32) के 3/4 के अंतर्गत उक्त दंडनीय अपराधों के संबंध में अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और न्यायाधिकार क्षेत्र का विस्तार संपूर्ण उत्तर प्रदेश राज्य पर करती है।

[फा. सं. 228/36/2014-एवीडी-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 11th June, 2014

S.O. 1738.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh, Grih (Police) Anubhag-12, Lucknow vide Notification No. 606/6-PU-12-14-9(4)D/14 dated 3rd June, 2014 hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment within the whole State of Uttar Pradesh for investigation of offences punishable under sections 376-D/302/120-B of the Indian Penal Code, 1860 (Act No. 45 of 1860) and 3/4 of the Protection of Children from Sexual Offences Act, 2012 (Act No. 32 of 2012) relating to Case Crime No. 295/2014 registered at Police Station Usahait, District Badaun, Uttar Pradesh pertaining to the rape and murder of Km. Moorti and Km. Pushpa at Village Katra under Police Station Usahait, District Badaun (Uttar Pradesh), in relation to or in connection with the above mentioned offence.

[F.No. 228/36/2014-AVD-II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 5 जून, 2014

का.आ. 1739.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खण्ड (ग) के उपखण्ड (i) के उपबंध यूनिन बैंक आफ इंडिया पर लागू नहीं होंगे, जहां तक उनका संबंध बैंक के अध्यक्ष एवं प्रबंध निदेशक श्री अरूण तिवारी को यूनिन के बीसी आस्ति प्रबंधन कंपनी प्रा. लि. के बोर्ड में गैर-कार्यकारी अध्यक्ष और नामित निदेशक तथा एसयूडी जीवन बीमा कंपनी लि. के बोर्ड में गैर-कार्यकारी निदेशक तथा गैर-कार्यकारी अध्यक्ष के रूप में नामित किए जाने से है।

[फा. सं. 13/39/2013-बीओ-1]

विजय मल्होत्रा, अवर सचिव

MINISTRY OF FINANCE**(Department of Financial Services)**

New Delhi, the 5th June, 2014

S. O. 1739.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendations of the Reserve Bank of India, hereby declare that the provisions of sub-clauses (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Union Bank of India in so far as it relates to the nomination of Shri Arun Tiwari, Chairman and Managing Director of the Bank of the Board of Union KBC Asset Management Co. Pvt. Ltd. as Non-executive Chairman as Nominee Director and on the Board of SUD Life Insurance Company Ltd. as Non-executive Director and Non-executive Chairman.

[F.No. 13/39/2013-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 6 जून, 2014

का.आ. 1740.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 6 की उप-धारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्रीमती स्नेहलता श्रीवास्तव, अपर सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से और अगले आदेशों तक, श्री अरविन्द कुमार के स्थान पर राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 7/2/2012-बीओ-1]

मिहिर कुमार, निदेशक

New Delhi, the 6th June, 2014

S. O. 1740.—In exercise of the powers conferred by clause (d) of the sub-section (1) of Section 6 of the National

Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, hereby nominate Smt. Snehlata Shrivastava, Additional Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Directors of the National Bank for Agriculture and Rural Development (NABARD) with immediate effect and until further orders vice Shri Arvind Kumar.

[F.No. 7/2/2012-BO-I]

MIHIR KUMAR, Director

नई दिल्ली, 7 मई, 2014

का.आ. 1741.—भारतीय स्टेट बैंक (समनुषंगी बैंक) अधिनियम, 1959 की धारा 25 की उप-धारा (1) के खण्ड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, एतद्वारा, वित्तीय सेवाएं विभाग, वित्त मंत्रालय के अवर सचिव श्री जे. एस. फौगाट को तत्काल प्रभाव से और अगले आदेशों तक, श्री एम. एम. दौला के स्थान पर स्टेट बैंक ऑफ मैसूर के निदेशक मंडल में सरकार द्वारा नामित निदेशक के रूप में नामित करती है।

[फा. सं. 6/3/2012-बीओ-1]

मनीष कुमार, अवर सचिव

New Delhi, the 7th May, 2014

S. O. 1741.—In exercise of the powers conferred by clause (e) of Sub-Section (1) of Section 25 of The State Bank of India (Subsidiary Banks) Act, 1959, the Central Government, hereby nominates, Shri J. S. Phaugat, Under Secretary, Department of Financial Services, Ministry of Finance, as Government Nominee Director on the Board of Directors of State Bank of Mysore with immediate effect and until further orders *vice* Shri M. M. Dawla.

[F.No. 6/3/2012-BO-I]

MANISH KUMAR, Under Secy.

नई दिल्ली, 7 मई, 2014

का.आ. 1742.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एम. एम. दौला, अवर सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से और अगले आदेशों तक श्री एस. सी. दास के स्थान पर पंजाब एंड सिंध बैंक के निदेशक मण्डल में सरकार द्वारा नामित निदेशक के रूप में नामित करती है।

[फा. सं. 6/3/2012-बीओ-1]

मनीष कुमार, अवर सचिव

New Delhi, the 7th May, 2014

S. O. 1742.—In exercise of the powers conferred by clause (b) of Sub-Section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act,

1970/1980, read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates Shri M. M. Dawla, Under Secretary, Department of Financial Services, as Government Nominee Director on the Board of Directors of Punjab & Sind Bank with immediate effect and until further orders vice Shri S. C. Das.

[F.No. 6/3/2012-BO-I]

MANISH KUMAR, Under Secy.

नई दिल्ली, 23 मई, 2014

का.आ. 1743.—वित्तीय आस्तियों का प्रतिभूतिकरण और पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन अधिनियम, 2002 की धारा 21(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने यह निर्णय लिया है कि श्री मिहिर कुमार, निदेशक (रिकवरी), वित्तीय सेवाएं विभाग, भारत सरकार अपने कार्यभार के साथ-साथ प्रतिभूतिकरण से संबंधित लेन-देनों के पंजीकरण, वित्तीय आस्तियों के पुनर्गठन तथा संपत्तियों से सृजित प्रतिभूति हित के उद्देश्य से केन्द्रीय रजिस्टर, केन्द्रीय रजिस्ट्री के रूप में केन्द्र सरकार द्वारा नियमित पदधारी की नियुक्ति होने तक, केन्द्रीय रजिस्ट्रार और प्रबंध निदेशक एवं मुख्य कार्यपालक अधिकारी, केन्द्रीय रजिस्ट्री का अतिरिक्त प्रभार संभालेंगे।

[फा. सं. 56/05/2007-(बीओ-II) रिकवरी]

राजीव शर्मा, अवर सचिव (डी.आर.टी. एण्ड रिकवरी)

New Delhi, the 23rd May, 2014

S.O. 1743.—In exercise of the powers conferred under Section 21(1) of the Securitisation and Reconstruction of financial Assets and Enforcement of Security Interest Act, 2002, the Central Government has decided that Sh. Mihir Kumar, Director (Recovery), Department of Financial Services, Government of India will hold additional charge for the post of Central Registrar and Managing Director&

नई दिल्ली, 10 जून, 2014

का.आ. 1745.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, नीचे दी गई सारणी के कालम (3) में विनिर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में विनिर्दिष्ट बैंकों में सरकार द्वारा नामित निदेशक के रूप में तत्काल प्रभाव से और अगले आदेश होने तक, नामित करती है:—

क्रम सं.	बैंक का नाम	विद्यमान निदेशकों के नाम	प्रस्तावित व्यक्ति का नाम
1	2	3	4
1.	बैंक ऑफ बड़ौदा	श्री सुदर्शन सेन, मुख्य महाप्रबंधक, डीबीओडी	श्रीमती सुरेखा मरांडी, मुख्य महाप्रबंधक एवं मुख्य सतर्कता अधिकारी, केन्द्रीय सतर्कता कक्ष, भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय, 16वीं मंजिल, केन्द्रीय कार्यालय बिल्डिंग, शहीद भगत सिंह रोड, फोर्ट, मुम्बई-400001

Chief Executive Officer, Central Registry for the purpose of registration of transactions relating to securitisation, reconstruction of financial assets and security interest created over the properties till the time a regular incumbent is appointed by the Central Government as Central Registrar, Central Registry.

[F.No. 56/05/2007-(BO-II) Recovery]

RAJIV SHARMA, Under Secy. (DRT & Recovery)

नई दिल्ली, 9 जून, 2014

का.आ. 1744.—राष्ट्रीय आवास बैंक अधिनियम, 1987 (1987 का 53) की धारा 6 की उप-धारा (1) के खण्ड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली के संयुक्त सचिव (आईएफ) श्री आलोक टण्डन, आईएएस को तत्काल प्रभाव से तथा अगले आदेशों तक, श्री अरविन्द कुमार, आईएएस, संयुक्त सचिव के स्थान पर राष्ट्रीय आवास बैंक (एनएचबी) के निदेशक मंडल में निदेशक नामित करती है।

[फा. सं. 24/17/2010-आईएफ-II]

अतीश सिंह, निदेशक (आईएफ-II)

New Delhi, the 9th June, 2014

S. O. 1744.—In exercise of the powers conferred by clause (e) of sub section (1) of Section 6 of the National Housing Bank Act, 1987 (53 of 1987), the Central Government hereby nominates Shri Alok Tandon, IAS Joint Secretary (IF), Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Directors of National Housing Bank (NHB) with immediate effect and until further orders vice Shri Arvind Kumar, IAS, Joint Secretary.

[F.No. 24/17/2010-IF-II]

ATEESH SINGH, Director (IF-II)

1	2	3	4
2.	ओरियंटल बैंक ऑफ कामर्स	श्री एस. गणेश, मुख्य महाप्रबंधक, व्यय एवं बजटीय नियंत्रण विभाग	श्री एस. गणेश कुमार, मुख्य महाप्रबंधक, डीजीबीए, सरकारी तथा बैंक खाता विभाग, भारतीय रिजर्व बैंक, चौथी मंजिल, बाँयकुला कार्यालय बिल्डिंग, मुम्बई सेन्ट्रल स्टेशन के सामने, बाँयकुला, मुम्बई-400008
3.	कार्पोरेशन बैंक	श्री यू. एस. पालीवाल, कार्यपालक निदेशक	श्री अरूण पसरीचा, मुख्य महाप्रबंधक, सीएसडी, ग्राहक सेवा विभाग, भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय, पहली मंजिल, अमर बिल्डिंग, सर पी. एम. रोड, मुम्बई-400001
4.	बैंक ऑफ महाराष्ट्र	डॉ. एस. राजगोपाल, मुख्य महाप्रबंधक, एफएसयू	श्री जी. श्रीकुमार, मुख्य महाप्रबंधक, डीजीबीए, सरकारी तथा बैंक खाता विभाग, भारतीय रिजर्व बैंक, चौथी मंजिल, बाँयकुला कार्यालय बिल्डिंग, मुम्बई सेन्ट्रल स्टेशन के सामने, बाँयकुला, मुम्बई-400008

[फा. सं. 6/3/2011-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 10th June, 2014

S. O. 1745.—In exercise of the powers conferred by clause (c) of the sub-section (3) of Section 9 of The Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management & Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby nominates the persons specified in column (3) of the table below as Directors of Nationalized Banks specified in column (1) thereof in place of the persons specified in column (2) of said Table, with immediate effect and until further orders:—

S. No.	Name of the Bank	Name of the Existing Director	Name of the Persons proposed
1	2	3	4
1.	Bank of Baroda	Shri Sudarshan Sen, CGM, DBOD	Smt. Surekha Marandi, CGM and Chief Vigilance Officer, Central Vigilance Cell, Reserve Bank of India, Central Officer, 16th Floor, CO Bldg. Shahid Bhagat Singh Rd. Fort, Mumbai-400001.
2.	Oriental Bank of Commerce	Shri S. Ganesh, CGM, Department of Expenditure & Budgetary Control	Shri S. Ganesh Kumar CGM, DGBA, Department of Govt. & Bank Accounts, Reserve Bank of India, 4th Floor, Byculla Office Bldg. Opp. Mumbai Central Stn. Byculla, Mumbai-400008.
3.	Corporation Bank	Shri U. S. Paliwal, Executive Director	Shri Arun Pasricha, CGM, CSD, Customer Service Department, Reserve Bank of India, Central Office, 1st Floor, Amar Bldg. Sir P. M. Rd. Mumbai-400001.
4.	Bank of Maharashtra	Dr. S. Rajagopal, CGM, FSU	Shri G. Sreekumar, CGM, DGBA, Department of Govt. & Bank Accounts, Reserve Bank of India, 4th Floor, Byculla Office Bldg. Opp. Mumbai Central Stn. Byculla, Mumbai-400008.

[F. No. 6/3/2011-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 12 जून, 2014

का.आ. 1746.—निक्षेप बीमा और प्रत्यय गारंटी निगम अधिनियम, 1961 (1961 का 47) की धारा 6 की उपधारा 2 के खंड (ii) के साथ पठित धारा 6 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, श्री हर्ष कुमार भानवाला, अध्यक्ष, नाबार्ड को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, निक्षेप बीमा और प्रत्यय गारंटी निगम (डीआईसीजीसी) के निदेशक मंडल में डॉ. प्रकाश बक्शी के स्थान पर निदेशक नामित करती है।

[फा. सं. 6/13/2012-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 12th June, 2014

S. O. 1746.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 6 read with clause (ii) of sub-section 2 of Section 6 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Harsh Kumar Bhanwala, Chairman, NABARD as a Director on the Board of Directors of Deposit Insurance and Credit Guarantee Corporation (DICGC) for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier *vice* Dr. Prakash Bakshi.

[F.No. 6/13/2012-BO-I]

VIJAY MALHOTRA, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

नई दिल्ली, 30 मई, 2014

का.आ. 1747.—स्वास्थ्य एवं परिवार कल्याण मंत्रालय के निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, केन्द्रीय सरकार, राजभाषा (संघ की शासकीय प्रयोजन के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उपनियम (4) के तहत उसे अधिसूचित करती है।

1. एच. एस. सी. सी. (इंडिया) लिमिटेड, ई-6(ए) सेक्टर-1, नोएडा.

[फा. सं. ई.-11012/8/2014-रा.भा.]

डॉ. राकेश कुमार, संयुक्त सचिव (आरसीएच)

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 30th May, 2014

S. O. 1747.—In pursuance of Sub rule 10 of the official Language (use for official purpose of the Union) Rule 1976, the Central Government hereby notifies the following Office

of Ministry of Health & Family Welfare, whose 80 per cent staff have acquired working knowledge of Hindi.

1. H.S.C.C. (India) Limited (a Government of India Enterprise), Corporate Office, E-6(A), Sector-I, Noida (U.P.).

[No. E-11012/8/2014-(O.L.)]

D.R. RAKESH KUMAR, Jt. Secy. (RCH)

विद्युत मंत्रालय

नई दिल्ली, 22 अप्रैल, 2014

का.आ. 1748.—सार्वजनिक स्थल (अनाधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा-3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार एतद्वारा नेशनल थर्मल पावर कारपोरेशन लिमिटेड (एनटीपीसी लिमिटेड), एक सांविधिक प्राधिकरण के अधिकारी तथा भारत सरकार के राजपत्रित अधिकारी के रैंक के समतुल्य, श्री अभिमन्यु जी. बनसोडे, उप महाप्रबंधक (मानव संसाधन) को संपदा अधिकारी नियुक्त करती है तथा इस उद्देश्य के लिए, भारत सरकार, विद्युत मंत्रालय के दिनांक 16 नवंबर, 2000 के का.आ. 128 की अधिसूचना में आगे निम्नलिखित संशोधन करती है, अर्थात्:-

2. उक्त अधिसूचना में, तालिका में “क्रम संख्या 2 तथा उससे संबंधित प्रविष्टियों को निम्नलिखित के रूप में प्रतिस्थापित किया जाएगा, अर्थात्:-

1.	2.
“3 श्री अभिमन्यु जी. बनसोडे, नेशनल थर्मल पावर कारपोरेशन उप महाप्रबंधक (मानव संसाधन), एनटीपीसी लिमिटेड, रामागुण्डम सुपर थर्मल पावर स्टेशन, एनटीपीसी लिमिटेड, ज्योथिनगर, जिला : करीम नगर, आंध्र प्रदेश : 505215	नेशनल थर्मल पावर कारपोरेशन लिमिटेड (एनटीपीसी लिमिटेड) से संबंधित अथवा उसके द्वारा पट्टे पर लिए गए और उसके रामागुण्डम सुपर थर्मल पावर स्टेशन, डाकघर ज्योथिनगर, जिला करीमनगर, आंध्र प्रदेश के प्रशासनिक नियंत्रण के अंतर्गत आने वाले सभी स्थल, क्वार्टर, संपदा, संपत्ति एवं अन्य आवास।”

[फा. सं. 8/6/1992-थर्मल-I भाग-16]

जी. साई प्रसाद, संयुक्त सचिव

टिप्पणी : मुख्य अधिसूचना दिनांक 16 नवंबर, 2000 के का.आ. 128 के माध्यम से भारत के राजपत्र में प्रकाशित की गई थी तथा पिछला संशोधन दिनांक 15 जुलाई, 2010 के का.आ. 1863 के द्वारा किया गया।

MINISTRY OF POWER

New Delhi, the 22nd April, 2014

S.O. 1748.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints Shri Abhimanyu G. Bansode, Deputy

General Manager (Human Resources), Officer of the National Thermal Power Corporation Limited (NTPC Limited) a statutory authority and equivalent to the rank of Gazetted Officer of the Government of India, to be the Estate Officer and for that purpose makes the following further amendments in the notification of the Government of India, in the Ministry of Power number S.O. 128, dated 16th November, 2000, namely:—

2. In the said notification, in the Table, for serial number 2 and the entries relating thereto, the following shall be substituted, namely:—

1.	2.
"3. Shri Abhimanyu G. Bansode, Deputy General Manager (Human Resources), NTPC Limited, Ramagundam Super Thermal Power Station, Distt: Karimnagar, Andhra Pradesh: 505215 P.O. Jyothinagar, District-Karimnagar, Andhra Pradesh."	All land, quarters, estate, properties and other accommodation belonging to or taken on lease by National Thermal Power Corporation Limited (NTPC Limited) and under the administrative Control of its Ramagundam : Super Thermal Power Station, Karimnagar, Andhra Pradesh."

[F.No. 8/6/1992-TH.IPT-XVI]

G. SAI PRASAD, Jt. Secy.

Note: The principal notification was published in the Gazette of India vide number S.O. 128, dated the 16th November, 2000 and last amended vide number S.O. 1863, dated the 15th July, 2010.

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा यूनिट)

नई दिल्ली, 16 जून, 2014

का.आ. 1749.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, नोएडा के निम्नलिखित 19 क्षेत्रीय कार्यालयों को, ऐसे कार्यालयों के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:

1. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, इलाहाबाद, 19/17, कस्तूरबा गांधी मार्ग, कचहरी रोड, इलाहाबाद-211001.
2. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, बेंगलुरु, निदेशक (व्यावसायिक शिक्षा) का कार्यालय, तृतीय तल, पीयूई भवन, 18वां क्रॉस, सेपिज रोड मल्लुरेम, बेंगलुरु, कर्नाटक-560012.

3. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, भोपाल, मानस भवन, श्यामला हिल्स, भोपाल, मध्य प्रदेश ।
4. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, भुवनेश्वर ईएलटीआई परिसर, मैत्री विहार, चंद्रशेखर पुर, भुवनेश्वर-751023, ओडिशा ।
5. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, चंडीगढ़, वाईएमसीए परिसर, सेक्टर 11 सी, चंडीगढ़-160011.
6. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, देहरादून, 69/106, निरंजनपुर, आईटीआई के सामने, देहरादून-248001.
7. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, दिल्ली-1, ए-31, इंस्टीट्यूशनल एरिया, राष्ट्रीय राजमार्ग 24, सैक्टर-62, नोएडा, जिला-गौतम बुद्ध नगर, उत्तर प्रदेश ।
8. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, गांधी नगर, एम. एस. बिल्डिंग, डी ब्लॉक, 7वीं मंजिल, पथिकाश्रम के पास, सैक्टर-11, गांधी नगर-382011, गुजरात ।
9. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, गुवाहाटी, असम प्रकाशन बोर्ड का भवन, प्रथम तल, माध्यमिक शिक्षा बोर्ड के पास, बामुनीमैदान, गुवाहाटी-781021, असम ।
10. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, हैदराबाद, गृह सं-17-26, श्री नगर कालोनी, रोड नंबर-5, दिलसुख नगर, हैदराबाद, आंध्रप्रदेश ।
11. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, जयपुर, डी-11, 12 रूप विहार कालोनी, मोहन मार्ग, कराली गार्डन के सामने, न्यू सांगनेर रोड, सोडाला, जयपुर-302006 राजस्थान ।
12. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, कोच्चि, 34/2470 सी, दवितिय तल, मामंगलम, पलरिवट्टम पोस्ट, कोच्चि-682025, केरल ।
13. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, कोलकाता, 10/1/एच, डायमंड हार्बर रोड, कोलकाता-700027 पश्चिम बंगाल ।
14. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, पटना, ललित भवन, भूमितल, बेल रोड, पटना-800001 बिहार ।
15. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, पुणे, मार्फतभारतीय शिक्षा संस्थान, 128/2, जे. पी. नायक रोड, कोथरूद, पुणे-411029, महाराष्ट्र ।
16. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, उप-क्षेत्रीय कार्यालय, विशाखापट्टनम, 5वां तल, बी ब्लॉक, वुडा कॉम्प्लेक्स, सिरिपुरम, विशाखापट्टनम-530003 आंध्रप्रदेश ।
17. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, रायपुर, बीटीआई, ग्राउंड, डाइट कैम्पस, शंकर नगर, रायपुर, छत्तीसगढ़-492007.
18. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, रांची, हॉस्टल परिसर, अमर शहीद ठाकुर विश्वनाथ सहदेव जिला विद्यालय, प्रथम तल बी एड कॉलेज, रांची, झारखंड ।

19. राष्ट्रीय मुक्त विद्यालयी शिक्षा संस्थान, क्षेत्रीय कार्यालय, चैन्नै, राजकीय आदर्श उच्च माध्यमिक विद्यालय, लेडी वेलिंगटन कैम्पस, ट्रिपलीकेन, चैन्नै, तमिलनाडु ।

[सं. 11011-1/2014-रा.भा.ए.]

आर. पी. सिसोदिया, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O.L. UNIT)

New Delhi, the 16th June, 2014

S. O. 1749.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following 19 Regional Offices of National Institute of Open Schooling, NOIDA under the Ministry of Human Resource Development, (Department of School Education & Literacy) as offices, whose more than 80% members of the staff have acquired working knowledge of Hindi:

1. NIOS, Regional Office, Allahabad, 19/17, Kasturba Gandhi Marg, Court Road, Allahabad-211002.
2. NIOS, Regional Office, Bengaluru, Office of the Director (Vocational Education), 3rd Floor, PUE Bhawan, 18th Cross, Sepiz Road, Malleshwaram, Bengaluru, Karnataka-560012.
3. NIOS, Regional Office, Bhopal, Manas Bhawan, Shyamala Hills, Bhopal, Madhya Pradesh.
4. NIOS, Regional Office, Bhubaneswar, ELTI Complex, Maitri Vihar, Chandrashekhar Pur, Bhubaneswar-751023, Odisha.
5. NIOS, Regional Office, Chandigarh, YMCA Complex, Sector 11C, Chandigarh-160011.
6. NIOS, Regional Office, Dehradun, 69/106, Niranjapur, Opposite ITI, Dehradun-248001.
7. NIOS, Regional Office, Delhi-1, A-31, Institutional Area, NH-24, Sector-62, NOIDA, Distt. Gautam Budh Nagar, Uttar Pradesh.

8. NIOS, Regional Office, Gandhi Nagar, M. S. Building, D Block, 7th Floor, Near Pathikaashram, Sector-11, Gandhi Nagar-382011, Gujarat.
9. NIOS, Guwahati, Assam Publication Board Bhawan, 1st Floor, Near Assam Secondary Education Board, Bamuni Maidan, Guwahati-781021 (Assam).
10. NIOS, Regional Office, Hyderabad, House No. 17-26, Shri Nagar Colony, Road No. 5, Dilsukh Nagar, Hyderabad, Andhra Pradesh.
11. NIOS, Regional Office, Jaipur, D-11, 12 Roop Vihar Colony, Mohan Marg, Opposite Kairali Garden, New Sangner Road, Sodala, Jaipur, Rajasthan-302006.
12. NIOS, Regional Office, Kochi, 34/2470 C, 2nd Floor, Maumangalam, Palarivattam Post, Kochi-682025, Kerala.
13. NIOS, Regional Office, 10/1/H, Diamond Harbour Road, Kolkata-700027 West Bengal.
14. NIOS, Regional Office, Patna, Lalita Bhawan, Basement, Bailey Road, Patna-800001 Bihar.
15. NIOS, Regional Office, Pune, C/o Bhartiya Shiksha Sansthan, 128/2, J. P. Nayak Road, Kothrud, Pune-411029 Maharashtra.
16. NIOS, Regional Office, Sub-regional Office, Vishakhapatnam, 5th Floor, B Block, VUDA Complex, Siripuram, Vishakhapatnam-530003, Andhra Pradesh.
17. NIOS, Regional Office, Raipur, BTI Ground, DIET Campus, Shankar Nagar, Raipur, Chattisgarh-492007
18. NIOS, Regional Office, Ranchi, Hostel Complex, Amar Shahid Thakur Vishwanath Sahdev Zilla Vidyalaya, 1st Floor, B. Ed. College, Ranchi, Jharkhand.
19. NIOS, Regional Office, Chennai, Government Model Senior Secondary School, Lady Wellington Campus, Triplicane, Chennai, Tamilnadu.

[No. 11011-3/2014-O.L.U.]

R. P. SISODIA, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 6 जून, 2014

का.आ. 1750.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं:—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	स्थापित तिथि
1	2	3	4
1.	आईएस 1476 (Part 1): 2000	संशोधन संख्या 2, जनवरी 2014	06 जून, 2014

1	2	3	4
2.	आईएस 2911 (भाग 3) : 1980	संशोधन संख्या 4, जनवरी 2014	06 जून, 2014
3.	आईएस 3196 (भाग 3) : 2012	संशोधन संख्या 1, दिसंबर 2013	06 जून, 2014
4.	आईएस 4625 : 1968	संशोधन संख्या 2, जनवरी 2014	06 जून, 2014
5.	आईएस 7730 : 1975	संशोधन संख्या 1, दिसंबर 2013	06 जून, 2014
6.	आईएस 9038 : 1979	संशोधन संख्या 1, दिसंबर 2013	06 जून, 2014
7.	आईएस 9743 : 1990	संशोधन संख्या 6, दिसंबर 2013	06 जून, 2014
8.	आईएस 12650 : 2003	संशोधन संख्या 4, जून 2014	06 जून, 2014
9.	आईएस 15803 : 2008	संशोधन संख्या 2, दिसंबर 2013	06 जून, 2014
10.	आईएस 16102 (भाग 2) : 2012	संशोधन संख्या 1, सितंबर 2013	06 जून, 2014
11.	आईएस 16103 (भाग 3) : 2012	संशोधन संख्या 1, जून 2014	06 जून, 2014

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9ए, बहादुरशाह जफर मार्ग, नई दिल्ली 110002 क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकता, चण्डीगढ़, चैन्नै, मुम्बई, तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> द्वारा इंटरनेट पर खरीदा जा सकता है

[संदर्भ पीयूबी/जीएन-1 : 4]

कला माधवी वारियर, निदेशक (विदेशी भाषा एवं प्रकाशन)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 6th June, 2014

S. O. 1750.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:—

SCHEDULE

S. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
1	2	3	4
1.	IS 1476 (Part 1) : 2000 Performance of household refrigerating appliance-refrigerators with or without low temperature compartment part 1 energy consumption and performance	Amendment No. 2, January 2014	06 June 2014
2.	IS 2911 (Part 3) : 1980 Code of practice for design and construction of pile foundations : Part 3 Under-reamed piles (First Revision)	Amendment No. 4, January 2014	06 June 2014
3.	IS 3196 (Part 3) : 2012 Welded low carbon steel gas cylinder exceeding 5 liter water capacity for low pressure liquefiable gases Part 3 Methods of test (fifth Revision)	Amendment No. 1, December 2013	06 June 2014

1	2	3	4
4.	IS 4625 : 1968 'Specification for dehydrated carrots	Amendment No. 2, January 2014	06 June 2014
5.	IS 7730 : 1975 Guide for storage of pears	Amendment No. 1, December 2013	06 June 2014
6.	IS 9038 : 1979 Specification for reconstitutable protein beverage food	Amendment No. 1, December 2013	06 June 2014
7.	IS 9743 : 1990 Thermal insulation finishing cement-Specification (First Revision)	Amendment No. 1, December 2013	06 June 2014
8.	IS 12650 : 2003 Textiles-Jute bags for packing 50 kg foodgrains-Specification (Second Revision)	Amendment No. 4, June 2014	06 June 2014
9.	IS 15803 : 2008 Respiratory protective devices-self contained closed circuit breathing apparatus chemical oxygen (KO ₂) type, self generating, self rescuers-Specification	Amendment No. 2, December 2013	06 June 2014
10.	IS 16102 (Part 2) : 2012 Self-Ballasted Led Lamps for General Lighting Services Part 2 Performance Requirements	Amendment No. 1, September 2013	06 June 2014
11.	IS 16103 (Part 2) : 2012 Led Modules for General Lighting Part 2 Performance Requirements	Amendment No. 1, June 2014	06 June 2014

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram. On line purchase of Indian standard can be made at: <http://www.standardsbis.in>.

[Ref. PUB/GN-1:4]

KALA M. VARIAR, Director
(Foreign Language and Publications)

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय

नई दिल्ली, 13 जून, 2014

का.आ. 1751.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय के नियंत्रणाधीन राष्ट्रीय लघु उद्योग निगम लिमिटेड (मुख्यालय), नई दिल्ली के निम्नलिखित कार्यालयों जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है:

1. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, 4/7, सेन्ट्रल पार्क, डॉक्टर्स कालोनी, सिटी सेन्टर, दुर्गापुर-713216 (पश्चिम बंगाल)।
2. डिफाल्ट मैनेजमेंट रिकवरी ब्रान्च, राष्ट्रीय लघु उद्योग निगम लिमिटेड, पी-104 खैराने, एमआईडीसी, टीटीसी इन्डस्ट्रियल एरिया, कोपर खैराने, नवी मुम्बई-400709 (महाराष्ट्र)

[सं. ई-12016/01/2005-हिंदी]

एस. एन. त्रिपाठी, संयुक्त सचिव

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

New Delhi, the 13th June, 2014

S. O. 1751.—In pursuance of sub-rule (4) of Rule 10 of the Official languages (Use for official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of National Small Industries Corporation Ltd. (Headquarters), New Delhi under the control of the Ministry of Micro, Small & Medium Enterprises, whose more than 80% staff has acquired working knowledge in Hindi :

1. Branch Office, National Small Industries Corporation Ltd., 4/7 Central Park, Doctor's Colony, City Centre, Durgapur-713216 (West Bengal).
2. Default Management Recovery Branch, National Small Industries Corporation Ltd, P-104, Khairane, MIDC, TTC Industrial Area, Kopar Khairane, Navi Mumbai-400709 (Maharashtra).

[No. E-12016/01/2005-Hindi]

S. N. TRIPATHI, Jt. Secy.

कोयला मंत्रालय**आदेश**

नई दिल्ली, 20 जून, 2014

का.आ. 1752.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 2748 (अ), तारीख 9 सितम्बर, 2013 जो भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii) तारीख 11 सितम्बर, 2013 में प्रकाशित की गई थी, के प्रकाशन पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) और उक्त भूमि में या उस पर के अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए हैं:

और केन्द्रीय सरकार का यह समाधान हो गया है, कि सेंट्रल कोलफील्ड्स लिमिटेड, राँची (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जिन्हें केन्द्रीय सरकार इसे निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है:

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में और उस पर के सभी अधिकार केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, तारीख 11 सितम्बर, 2013 से निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए सरकारी कंपनी में निहित हो जाएंगे, अर्थात्:-

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी।
2. अधिकरण का गठन शर्त (1) के अधीन, उक्त सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन किया जाएगा तथा ऐसे अधिकरण और ऐसे अधिकरण की सहायता करने के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त सरकारी कंपनी द्वारा वहन किए जाएंगे और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों अपील आदि की जैसे बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे।
3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमि में या उस पर के पूर्वोक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो।
4. सरकारी कंपनी के पास केन्द्रीय सरकार के पूर्व अनुमोहन के बिना, उक्त भूमियों में या उन पर के पूर्वोक्त अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं।

[फा. सं. 43015/17/2010-पीआरआईडब्ल्यू-I]

दोमिनिक डुंगडुंग, अवर सचिव

MINISTRY OF COAL**ORDER**

New Delhi, the 20th June, 2014

S.O. 1752.—Whereas, on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 2748 (E), dated the 9th September 2013, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 11th September, 2013, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and the rights in and over the said land described in the Schedule appended to the said notification (hereinafter referred to as the said land) are vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the Central Coalfields Limited, Ranchi (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that all rights in and over the said land so vested, shall, with effect from 11th September 2013, instead of continuing to so vest in the Central Government shall vest in the Government company, subject to the following terms and conditions, namely :

1. the Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages, and the like, as determined under the provisions of the said Act.
2. Tribunal shall be constituted under section 14 of the said Act, for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1) and all expenditure incurred in connection with such Tribunal and persons appointed to assist the Tribunal shall be borne by the said Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in and over the said land, so vested, shall also be borne by the Government Company.
3. the Government Company shall indemnify the Central Government its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the aforesaid rights in and over the said land so vested.
4. The Central Government shall have no power to transfer the aforesaid rights in and over the said lands so vested, to any other person without the prior approval of the Central Government; and
5. the Government company shall abide by such directions and Conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/17/2010- PRIW-I]

DOMINIC DUNGUNG, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 9 जून, 2014

का.आ. 1753.—राष्ट्रपति, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय नं. 1, दिल्ली के पद हेतु लिंक अधिकारी के रूप में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-न्यायालय नं. 2, दिल्ली के पीठासीन अधिकारी श्री हरबंस कुमार सक्सैना को दिनांक 08.06.2014 से छः माह की अवधि तक अथवा नियमित पदधारण की नियुक्ति होने तक अथवा अगले आदेशों तक, इनमें से जो भी पहले हो तक के लिए अतिरिक्त कार्यभार सौंपते हैं।

[सं. ए-11016/03/2009-सीएलएस-II (भाग)]

एस. के. सिंह, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 9th June, 2014

S.O. 1753.—The President is pleased to entrust the additional charge of the post of Presiding Officer of the CGIT-cum-Labour Court No. 1, Delhi to Sh. Harbansh Kumar Saxena, Presiding Officer, CGIT-cum-Labour Court No. 2, Delhi for a period of six months with effect from 08.06.2014 or till the post is filled on regular basis or until further orders whichever is earlier.

[No. A-11016/03/2009-CLS-II (pt.)]

S. K. SINGH, Under Secy.

नई दिल्ली, 10 जून, 2014

का.आ. 1754.—राष्ट्रपति, श्री प्रमोद कुमार मिश्रा, को 05.06.2014 (पूर्वाह्न) से केन्द्रीय सरकार औद्योगिक न्यायाधीकरण-सह-श्रम न्यायालय, आसनसोल, के पीठासीन अधिकारी के रूप में 21.11.2018 तक अथवा अगले आदेशों तक, जो भी पहले हो, नियुक्त करते हैं।

[सं. ए-11016/03/2013-सीएलएस-II]

एस. के. सिंह, अवर सचिव

New Delhi, the 10th June, 2014

S.O. 1754.—The President is pleased to appoint Shri Promod Kumar Mishra as Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Asansol w.e.f. 05.06.2014 (F.N.) for a period upto 21.11.2018 or until further orders, which is earlier.

[No. A-11016/03/2013-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 17 जून, 2014

का.आ. 1755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूरेनियम कारपोरेशन ऑफ इंडिया लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, धनबाद के पंचाट (संदर्भ संख्या 297/2001) को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-29011/53/2001-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 297/2001) of the Central Government Industrial Tribunal/Labour Court-2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Uranium Corporation of India Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-29011/53/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD
PRESENT : SHRI KISHORI RAM, Presiding Officer**

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 297 OF 2001.

PARTIES : The President,
Chemical Workers Union,
Jamshedpur-12

Vs.

Chairman-cum-Managing Director
M/s Uranium Corporation of India Ltd.,
Jaduguda, Singhbhum (W)

Ministry's Order No. L-29011/53/2001-IR(M)

dt. 07.01.2001.

APPEARANCES :

On behalf of the : Mr. M. M. Khan, Ld. Advocate
Workman/Union

On behalf of the : Mr. P. R. Rakshit, Ld. Advocate
Management

State : JHARKHAND

Industry : Mines

Dhanbad, Dated the 12th March, 2014

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-29011/53/2001-IR(M) dt.07.01.2001.

SCHEDULE

“Whether the action of the Management of UCIL for not regularizing the services of 16 canteen workmen is justified? If not, to what relief the concerned workman is entitled?”

On receipt of the Order No. L-29011/53/2001-IR(M) dt.07.11.2001 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, the Reference Case No. 297 of 2001 was registered on 31.08. 2002 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union Representative workman and the O.P./Management appeared himself and their Lawyer contested in the case.

2. The present Industrial Dispute has been raised by sponsoring Chemical workers Union for the workers against the M/s Uranium Corporation of India Ltd. The case of the Union for the sixteen canteen workers as per the list later on enclosed with the Ministry's Letter dt.2.11.2004 is that the workmen are the workmen of a contractor, but they have direct relationship of Master and servant with the Management of Uranium Corporation of India Ltd. So, the Union has validly sponsored the cause of the workmen concerned. The canteen being financed by the Management Corporation is a statutory one situated at Narwa Mines. The Management has been making payment to the workmen directly through their own officials; hence the proprietor M/s Nayak Hotel is no body in the case. The contract system has been devised by the Management in order to deprive the workmen of the statutory benefits and of their permanent regularization in the services of the Corporation.

The Narwapahar Mines is one of the Mines owned by the UCIL which is wholly owned by the Government of India. The Corporation under its the obligation to set up a statutory canteen for the 2000 workmen regularly employed in the Mines at Narwapahar. The Management Corporation has been paying the instant workmen through one contractor who runs the canteen under the name and style

of M/s Nayak Hotel, though the canteen and the entire matter are under their control. The workmen have been regularly working right from 1992 to 93 continuously as per the demand letters of the Union duly signed by them. Having done continuous services for more than 240 days in a calendar year, the workmen have got their statutory rights for their regularization in the services of the Corporation with consequential benefits at par with the employed workmen of the Corporation. The workmen are also entitled to protection of Sec. 25 B of the I.D. Act, 1947, and any departure from the legal rights amounts to an unfair labour practice on the part of the Management as described in the 5th Schedule to the said Act. The Industrial Dispute was raised by the Union before the ALC ©, Chaibasa.

The Union has categorically inter alia denied all the allegation of the Management Corporation including the fact the workmen have been engaged by M/s Nayak Hotel owned by P.P.Nayak as imaginary.

3. Whereas in challenge to it, the case of the OP/ Management of the Corporations is that the reference is unmaintainable in law and facts; The Uranium Corporation is a entirely owned Government Company. It owned a rare precious material Uranium from its Jaduguda Mines and Narwapahar Mines, the latter recently set up Uranium is exclusively required for the defence of the country. The materials is unsalable for price or gain. The Corporation does not carry on any trader or business as envisaged under Sec.2 (J) of the Industrial Dispute Act, 1947. The Corporation at Narwapahar Mines has its own supervision and control over its workmen. But Shri P.Nayak, an owner and contractor, at the request of the workmen occasionally in the services of Corporation, has opened his M/s Nayak Hotel under his name and style as per the license agreement /the work Order No. 01/96 dt.29.4.1996 in order to cater the needs of other persons in and around the locality as well. There are six own/blood relations of the owner of the Hostel who are practically running it. Unlike the listed recognized Unions sponsoring the causes of the Mine workers, the Union is not recognized nor connected with the mine nor has any legal role to raise any grievances of so alleged persons employed by the proprietor of the Hotel under the provisions of the Trade Union Act, 1926, and amended upto date. Like a few politicians, self styled President of a Union to exploit the unorganized workers, the President of the instant Union situated at Jamshedpur without any concern with the Mines raised the dispute before the A.L.C. (C), Chaibasa, for regularization of 16 canteen contractors' workers of the Hotel. They have not any grievance against the M/s Nayak Hotel much less with the Management of the Corporation

4. Further the Management of the Corporation has alleged to have submitted their specific comments as per the letter dt.9.2.2001, that the Chemical Workers' Union

being inoperative in the Corporation, does not have a representative capacity for the Mines workmen nor for any Hotel. So it has no legal status to raise any dispute, as the Union was established at the instance of the Mines' Workers at Narwapahar. But all the four operating Unions: Jaduguda Labour Union, Uranium Kamgar Union, Uranium Mazdoor Sangh, and Singhbhum Uranium Mazdoor formed their joint Consultative Committee with the help of which the Hotel was determined to be set up. The Hotel is only a licensee as per the agreement with Shri P. Nayak, the owner of it, who is only answerable to their persons so engaged by him in all respects. Mr. P. Nayak's own relatives are the co-partners in the Hotel who are running it. As per the licensee, M/s Nayak Hotel is a supplier and Contractor for all practical purposes. There is no *vinculum jure* (legal bond) between the Corporation and the instant contractors' workers, nor even any remote link with the Corporation as per the terms and conditions of the Hotel Owner.

FINDING WITH REASONS

5. In the instant case, WWI Vinupado Tudu, one under Sl.No.1 out of total 16 workmen as per the list enclosed for the Union concerned, and MWI Sidheswara Panda and, the Asstt. Manager, on behalf of the O.P./Management, have been respectively examined.

In the instant reference, the two main questions evolve from the pleadings and evidences of both the parties which need consideration for proper adjudication.

Firstly, whether there is any employer and employee relationship between the alleged workmen and the Management of Uranium Corporation of India Ltd., and

Secondly, whether any sixteen alleged workmen has been in continuous service for one year, i.e., 240 days during a period of 12 calendar months preceding the date of the reference.

At the first point, Mr. Atimula Khan, the Union Representative for the workmen, has argued as WWI Visnupad Tudu, one of the workmen by evidence, has proved that all the workmen have been working since 1992-93 in the Narwapahar Canteen which is operated, controlled and financed by the UCIL (Uranium Corporation of India Ltd) which provides canteen facilities to the workers, though no letter of appointment nor any interview letter was given to them by the Management; they work on "no work no pay basis"; they had got the documents (the photocopies of two Labour Allocations dt. 30.1.2004, 30.08.2004, Notice dt. 24.1.2004 (Extt.W.1,2 & 3) under the signatures of Asstt. Manager (Pers.), S. Panda respectively. The photocopies of the Bill dt. 01.12.2004 of Dealer Kapur Chand Vachharaj for supply of goods to UCIL, NWP, the Union's letter dt. 9.5.2000 to the A.L.C.(C), Chaibsa, W. Singhbhum, whose two letters dt. 24.5.2000 to the Union and the CMD, M/s UCIL respectively, the ALC's letter dt. 25.4.2001 of 'Failure of

Conciliation to the Sec., Government of India, and one perforated page of 40 coupons: UCIL NWP Canteen 13491 No. Tea/Snacks, marked as Extt.W.4 to 9 respectively brought on the case record as per the Orders dt. 23.8.2005 and 07.09.2005 respectively. Thus Union Representative emphatically contended that the workmen are entitled to their regularization in the service of the Company, as there is neither any Hotel named Nayak nor any contractor for the canteen which appears to be apparently very contradictory to the pleading of the union Representative at the point of Contractor.

In response to it, the contention of Mr. P.R. Rakshit, Ld. Advocate for the O.P./Management as the pleaded evidence of MWI Sidheswara Panda, Asstt. Manager of N.W.P. Project, stands is that the UCIL is the Government of India Enterprises which has its specific Rules and Regulations about appointments, promotion, dismissal of its workmen under it; Mr. Patil Pawan Nayak (known as P.P. Nayak) was issued the Letter of Intent dt. 22.8.1998 by Mr. A.K. Singh, the Manager (Pers.) (Ext.M.2) on the application dt. 7.3.88 of Mr. P.P. Nayak (Ext.M.1) for allotment of a premises for running a hotel; thereafter the Management entered into an agreement with aforesaid P.P. Nayak for running a hotel at Narwapahar Project as per the agreement dt. (Ext.M.3), and accordingly aforesaid P.P. Nayak was being issued the licenses (Ext. M 3/1 series) on time to time fresh agreements (Extt.M.4 series) for running his Nayak Hotel; and all other documents (Ext. M-5 series, photocopies of Cash receipts dt. 24.3.93, 10.02.94, 30.02.1994, the Bills dt. 20.5.95, 4.3.95, 4.2.95, 26.11.1996) related to payment of water, electricity and rent charges to the Management by the Licensee M/s Patil Pawan Nayak - clearly prove the existence of aforesaid P. P. Nayak as a contractor of the UCIL, Narwapahar Mines for running the canteen under the name and style of Nayak Hotel for specified period time to time as per the terms and conditions of the said agreement including the overall maintenance of his own employees at his own cost.

6. Mr. Rakshit, Learned Counsel for the O.P./Management has argued, citing the ruling 2002 LAB.I.C.131, Hari Shankar Sarma Vs. M/s Artificial Limbs Manufacturing Corporation, wherein as held by the Hon'ble Supreme Court, that in reference to Sec. 96 of the Factories Act (63 of 1948) merely because the Canteen had been set up pursuant to a statutory obligation under Sec. 46 of the Factory Act, it can not be said that employees in the canteen were the employees of Government of India Undertaking, where it is left to the discretion of the concerned establishment to discharge its obligation of setting up a canteen either by way of direct recruitment or by employment of a contractor, it can not be postulated that in the latter event, the persons working in the canteen would be employees of the establishment (Para 5). Similar view was also taken by the Hon'ble Apex Court in the case of Haldia Refinery Canteen employees Union & Ors

Vs. Indian Oil Corporation Ltd or Ors, 2005 SCC (L & S)593 by holding that workmen of statutory canteen managed by contractor having their relationship with the establishment maintaining such canteen are workmen of said establishment for purpose of Factories Act only, but not ipso facto workmen of Establishment for other purposes entitling them to absorption into the service of the principal employer (Para 17). Mr. Rakshit appears to have rightly argued that it can not be said that by virtue of engagement of contract labour by he contractor in any work of or in connection with the work of an establishment, the relationship of master and servant is created between the principal employer and the contractor labour as held by the Hon'ble Apex Court (the Constitutional Bench) in the case of Steel Authority of India Ltd. Vs. N.U. Water Front workers reported in 2001 LAB. I.C.3656 (i) in reference to Sec.2 (i)2© of the CL (R & A) Act 1970 and Sec.2(S) of the I.D.Act,1947. Apart from it the perusal of the materials reveals also the engagement of these 16 workers by the Hotel Proprietor including his own relatives as workers named under Sl. Nos. 4, 6, 8, 10 & 12 of the List as evident from the application of Mr. P.P.Nayak, the proprietor (Ext.M.6).

In view of the aforesaid facts, I find no employer-employee relationship even impliedly exists between the present 16 canteen workers and the Management.

7. As to the second point related to the working period of these canteen workers, there is not a single piece of proof on behalf of either the Union Representative or the

canteen workers about their alleged continuous working for one year preceding 7th Nov., 2001, the date of the reference.

Keeping an overall view of the instant case, Mr. R. P. Rakshit, the Learned Counsel for the O.P./Management has lastly argued that in case of public employment, appointment de hors due process of selection envisaged by constitutional scheme confers no right on any appointee for regularization nor Right of Court/Executive would extend to directing regularization to be treated as permanent on service on the fact that employee has continued for long as held by the Hon'ble Apex Court in the case of Secretary, State of Karnataka Vs. Uma Devi, AIR 2006 SC 1806(CB). I find the argument of Mr. Rakshit, Learned Counsel for the O.P./Management appears to be reasonable and persuasive in the instant case.

Considering all the aforesaid discussed facts of both the parties based on the materials available on the case record, it is, in the terms of therefore, hereby.

ORDERED

That the Award be and the same is passed that the action of the Management of U.C.I.L. for not regularizing the services of 16 canteen workmen (as per list enclosed) is quite justified and legal. These workmen are not entitled to any relief.

KISHORI RAM, Presiding Officer

Particulars of Canteen Workers, Uranium Corporation of India Ltd., Narwapahar Project, PO: Narwapahar, Singhbhum East

Sl. No.	Name of worker	Father's Name and address	Designation	Date of appointment
1	2	3	4	5
1	Sri Bishnu Pado Tudu	Sri Kanhai Lall Tudu Village –Roldih (Birbad) PO: Bango, Singhbhum (East)	Unskilled (Helper/Supplier)	12.02.1992
2	Sri Dhuma Besra	Late Gopal Besra Village :Dhobani, PO: Rajdona Dist: Singhbhum (East)	Unskilled (Helper/Supplier)	04.08.1994
3	Sri Banmali Das	Sri Laxikant Das Village-Kadma, P.O Narwapahar, Dist: Singhbhum (East)	Unskilled (Helper/Supplier)	16.08.1993
4	Sri Ranbir Nayak	Sri Nagendra Nath Nayak Village-Surmuchi, P.O. Ramchandrapur, Singhbhum East	Unskilled (Helper/Supplier)	20.02.1992
5	Sri Ram Krishna Gope	Late Tarni Gope Village : Bango, P.S. Potka, Dist: Singhbhum (East)	Unskilled (Helper/Supplier)	03.06.1991
6	Shri Dharnidhar Nayak	Late Ram Chandra Nayak Village :Dhangam, PO: Kendadangri, Dist: Singhbhum East	Skilled (Cookman)	22.09.1989

1	2	3	4	5
7	Shri Ranjit Sheet	Sri Kedarnath Sheet Village Barasol, PO: Ramchandrapur, Distt:Singhubhum (East)	Unskilled (Helper/Supplier)	02.02.1994
8	Sri Ranjit Nayak	Sri Rajendra Nayak Village –Surmuhi, PO:Ramchandrapur, Distt: Singhbhum East	Skilled (Cookman)	19.02.1992
9	Sri Ananta Das	Late Hari Krishbna Das Village- Murgaghutu, PO; Narwpahar, Distt; Singhubhum East	Skilled (Cookman)	05.04.1993
10	Sri Arun Nayak	Sri Ram Chandra Nayak Vill- Dhangam, PO: Kendadungri, Distt: Singhbhum East	Unskilled Helper/Supplier	10.04.1994
11	Sri Lal Mohan Bhagat	Late Kokil Bhakat Vill- Pichhli,PO;Sankarda, Dist:Singhubhum (West)	Skilled (Cookman)	06.07.1995
12	Sri Dilip Dewari	Sri Harihar Dewri Village –Murgaghutu. PO:Narwapahar, Dist:Singhbhum (West)	Unskilled Helper/Supplier	Incomplete
13	Shri Shankar Nayak	Sri Amar Nayak Vill- Surmahi, PO:Ramchandrapur, Distt:Singhuhum (East)	Unskilled (Helper/Supplier)	Incomplete
14.	Sri Sushanta Sahu	Late Golak Sahu Village –Brahamangara, PO: Sarjamdah Distt:Singhbhum East	Unskilled (Helper/Supplier)	Incomplete
15	Sri Gourango Das	Late Khudi Ram Das Village: Kadma (Jayuadih), PO:Narwapahar Distt:Singhbhum East	Skilled (Cookman)	Incomplete
16	Sri Goutum Sahu	Late Bhabani Sahu Village- Surda (Annanagar) PO: Surda, Distt:Singhbhum (East)	Unskilled (Helper/Supplier)	Incomplete

नई दिल्ली, 17 जून, 2014

New Delhi, the 17th June, 2014

का.आ. 1756.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एस एम सी लिमिटेड, राजमहल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 1, धनबाद के पंचाट (संदर्भ संख्या 7/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

S.O. 1756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/ 2011) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s SMC Limited, Rajmahal and their workman, which was received by the Central Government on 6/6/2014.

[सं. एल-29011/9/2010-आईआर (एम)]

जोहन तोपनो, अवर सचिव

[No. L-29011/9/2010-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD****Reference: No. 7/ 2011**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Employer in relation to the management of Standard Mercantile Co. Rajmahal

AND**Their workmen**

PRESENT: Sri R.K.Saran,

Presiding Officer

APPEARANCES:

For the Employers : Sri S. P. Rakshit, Advocate

For the workman : None

State : Jharkhand

Industry : Mining

Dated 9/4/2014

AWARD

By order No. L-29011/9/2010-IR (M) dated 22/02/2011 the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of M/S SMC Ltd. Rajmahal in terminating the service of Shri Chunku Murmu & 185 casual Labourers (list enclosed) working since 1987 at Rajmahal w.e.f 19.10.2007 is appropriate & Justified ? What relief the 186 workmen are entitled to ?”

ANNEXURE

1. Chunku Murmu
2. Radha Mohan Mahato
3. Wakil Mahato
4. Niranjana Mahato
5. Balram Mahato
6. Sitaram Mahato
7. Bijay Mandal
8. Bhim Mahato
9. Shankar Mahato
10. Ram Bilash Mahato
11. Mandal Bhagrati
12. Bijay Ghosh

13. Basudeo Mahato
14. Baiju Mahato
15. Samprasad Ghosh
16. Parkheet Mahto
17. Kanhai Marndi
18. Sahdev Mahto
19. Dilip Mahto
20. Bhawesh Saha
21. Smt. Shanti Devi
22. Anil Saha
23. Dileep Ghosh
24. Krishna Saha
25. Mangal Mahto
26. Bateshar Thakur
27. Suknee Beva
28. Manjo Devi
29. Vimal Mandal
30. Keshri Devi
31. Chand Munee Uranv
32. Surjee Urany
33. Aanti Devi
34. Jayanti Devi
35. Kamla Beba
37. Aruna Devi
38. Reeta Devi
39. Ram Kishor Mahto
40. Kartik Mahto
41. Fuduku Mahto
42. Khedan Mahto
43. Nimay Mahto
44. Anj Nasaha
45. Sl.No. 45 to 64 is not received by the Ministry
65. Vidya Sagar Saha
66. Gopal Orain
67. Jungli Mahato
68. Chhakku Mahato
69. Anand Girdha
70. Benjamin Band
71. Santosh Pramanik

72	Mahendar Mahato	121	Dukhani Mondal
73	Kevra Oraon	122	Ratani Oraon
74	Ranjeet Saha	123	Binda Mahato
75	Bishnu Saha	124	Sanjhli Hanshada
76	Shankar Mandal	125	Bhola Mondal
77	Sanjeev Kr. Mondal	126	Dulo Marandi
78	Parimal Mandal	127	Sl. No. 127 to 157 is not mentioned in the list of workmen, Issued by the Ministry with Order of ref.
79	Rajan Mondal	159	Sharavan Saha
80	Nayan Saha	160	Sumati Devi
81	Mahendra Mahato	161	Chdu Hanshada
82	Shokit Saha	162	Hopna judu
83	Raj Kumar Saha	163	Marabhamra Hembaram
84	Sunita Devi	164	Jugunu Marandi
85	Baso Devi	165	Kuwar Tudu
86	Lalita Devi	166	Manjhi Marandi
87	Sl.87 to Sl.No.97 is not Mentioned in the list along with order of reference	167	Chandan Mahato
98	Sushila Devi	168	Trkeshwar Rar
99	Nirmala Devi	169	Shanti Devi Mondal
100	Panchhi Devi	170	Sharavan Mondal
101	Binod Mandal	171	Barun Mahato
102	Bimla Devi	172	Bajarangi Yadav
103	Aloo Devi	173	Shyam Mahato
104	Bashni Beba	174	Shindhu Mahato
105	Meena Devi	175	Hopna Marandi
106	Koshila Devi	176	Shovesh Mandal
107	Jobni Oran	177	Ashok Poddar
108	Gahano Oraon	178	Prabhash
109	Lakhi Muni Mondal	179	Ranjeet Mahato
110	Durgee Oraon	180	Fulwati Mandal
111	Sabitri Oraon	181	Binod Mandal
112	Munni Devi	182	RamPrashad Mandal
113	—————	183	Gita Beba
114	Veena Beba	184	Devendra Mahato
115	Bishokha Mondal	185	Pradeep Ravidas
116	Ranjeet Sarkar	186	RamPrashad Ghosh
117	Ashok Mandal	187	Satyanarayan Mahato
118	Fulmuni Oraon		
119	Suneeta Oraon		
120	Fulo Mondal		

Note :- Name of the workmen in Sl. No 45 to 64 , Sl. No.87 to 98, and Sl.No.127 to 157 in the list of workmen is not received by the Ministry along with order of reference.

2. After receipt of the reference, both parties are appeared and files claims statement and document. But appearing for certain dates none appears on behalf of the Sponsoring Union. Subsequently Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence, No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1757.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टील अथॉरिटी ऑफ इंडिया लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय 2, धनबाद के पंचाट (संदर्भ संख्या 2/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-43012/03/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2013) of the Central Government Industrial Tribunal/Labour Court-2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Steel Authority of India Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-43012/03/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT:

SHRI KISHORI RAM, Presiding Officer.

In the matter of an application under Sub –Section (2) of the Sec. 2A of the Industrial Dispute Act, 1947 and the Industrial Disputes (amendment) Act. 2010(24 of 2010)

I. D.CASE NO. 2 OF 2013

PARTIES : Ram Charitra Pandit,
Ex-Employee of SAIL/BSL
849/III-A, Bokaro Steel City,
Bokaro ...Applicant

Vs.

Chief executive Officer,
Steel Authority of India Ltd.,
“ISPAT BHAWAN”,
Bokaro Steel city ...O.P. Party

APPEARANCES :

On behalf of the : Mr. Anand Kumar,
workman/Union Ld. Advocate

On behalf of the : None
Management

State : Jharkhand

Industry : Steel

Dhanbad, dated, the 21st April, 2014

2. Mr. Anand Kumar,Ld. Advocate is present for applicant/workman Ram Charitra Pandit and by filing a petition (in duplicate) on his behalf, submits for withdrawal of the present application of the Industrial Dispute raised under Sec.2(A) of the Industrial Dispute Act,1947 on the ground that the same I.D., has been referred by the Ministry to the CGIT-LC No.1, Dhanbad (Vide Ministry Order No.L-43012/03/2013-IR(M) dt.19.02.2014.) for adjudication. But none appeared on behalf of the O.P./Employer. Under these circumstances, the Industrial Dispute filed by the applicant in this Tribunal is closed as withdrawn. Let a letter is forwarded to the Ministry of Labour & Employment, Government of India, New Delhi for its acknowledgment, as the Industrial dispute is related to the dismissal of the applicant.

KISHORI RAM, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1758.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 15/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-11012/01/2011-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2012) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-11012/01/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT
CHENNAI**Wednesday, the 21st May, 2014**PRESENT :**

K. P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 15/2012

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their workman)

BETWEEN

Five Committee of Workmen 1st Party/Petitioner Union
Representing the Fire Pump
Operators Working in Airport
Authority of India
3B/F1, Vignesh Flats,
Periyar Salai Kovilambakkam,
Chennai-600117

AND

1. The Airport Director : 2nd Party/1st Respondent
The Airport Authority of
India Chennai Airport,
Meenambakkam
Chennai-600027
2. Sri R. Devendran : 2nd Party/2nd Respondent
Prop M/s RD Elect. & Engg.
Works, 20, Nehru Street,
Ullagaram Nanganallur,
Chennai-600061
3. M/s Lakshmi Electrical : 2nd Party/3rd Respondent
No. 1-C, CLC Works Road
New Colony, Chrompet
Chennai-600044

APPEARANCE:

- For the 1st Party/Petitioners : M/s. Balan Haridas,
R. Kamatchi
Sundaresan,
Advocates
- For the 2nd Party/1st Management : M/s. R. Parthiban,
C. Vigneswaran,
Advocates

For the 2nd Party/2nd Management : Set Ex-parteFor the 2nd Party/3rd Management : Set Ex-parte**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-11012/1/2011-IR(M) dated 14.03.2012 referred the Industrial Dispute between the above referred parties for adjudication.

The schedule mentioned in that order is :

“Whether the demands of the 18 contract labourers (as per list enclosed), all Pump Operators working through the contractors for Airport Authority of India, Chennai seeking regularization on the roll of the Airport Authority of India, Chennai are legal and justified? What relief the workmen are entitled to?”

2. On receipt of Industrial Dispute, this Tribunal has numbered it as ID 15/2012 and sent notices to both sides. Both sides entered appearance through their respective counsel and filed their claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner is a five man committee of employees representing 18 Fire Pump Operators working with the First Respondent. By a resolution, these 18 Fire Pump Operators have authorized the five man committee to raise the Industrial Dispute for regularization of their service as Fire Pump Operators in the first Respondent organization. The employees who are concerned in the dispute were working as Fire Pump Operators in the First Respondent, the Airport Authority of India for period ranging from 2 to 5 years through the so-called Contractor. Initially they were termed to be contract employees of the Second Respondent. After the Second Respondent left, the employees are termed to be working through Lakshmi Electrical Enterprises, the Third Respondent. The 18 Fire Pump Operators whose names are given in the annexure are working in three shifts in the First Respondent organization. The function of the Fire Pump Operators is to maintain the pressure of water in the Fire Pump Houses which are situated at Kamaraj Domestic Terminal, Anna International Terminal, New International Department Terminal, Import Cargo, Export Cargo and Administration Block. The work discharged by them is permanent in nature. Work is allotted to them by the Assistant Engineers of the First Respondent. Their work is continuously supervised and monitored by the engineers of the First Respondent. The Senior Superintendents of the First Respondent will oversee the activities of the Fire Pump Operators on day to day basis. If the operators are taking leave they will have to inform the concerned Assistant Engineer of the First Respondent. It is the first Respondent who is deciding at which shift the Fire Pump Operators are to work. The

Contractor had been only a name lender to distribute the salary received from the First Respondent. The Contract between the First Respondent and the Contractor is sham and nominal. The control and supervision of work done by the Fire Pump Operators concerned in the dispute is exercised by the First Respondent. Even though the Contractors change from time to time, the employees concerned in the dispute remained the same. All the workers concerned in this dispute are working continuously for more than 480 days within a period of 24 calendar months. They are entitled to permanency as per Section-3 of Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act. There are about 80 sanctioned posts of Fire Pump Operators. Upto the year 2003 only permanent employees were working in the post of Fire Pump Operators. However, the First Respondent has started to term the workers as contract employees to defeat their rights. The Fire Pump Operators in question are to be treated as permanent employees of the First Respondent. An award may be passed holding that the 18 Fire Pump Operators named in the annexure to the Claim Statement are permanent employees. The First Respondent may be directed to regularize the service of these 18 Fire Pump Operators.

4. The First Respondent has filed Counter Statement contending as follows:

The averments made in the Claim Statement are denied. The workmen in question are working as contract workers for operation and maintenance of Fire Pumps located at various places at Chennai International Airport to protect the terminal in the event of fire. For the first time a tender was floated for the job of maintenance and operation of water supply system under the First Respondent in 2004. The first tender was awarded to a Contractor for the period from 01.08.2004 to 31.07.2005. For the year 2005-2006 another agreement was entered into with another Contractor on the basis of tenders received. For the year 2008-2009 contract was given to Lakshmi Electrical Enterprises. Though initially there were 21 workmen under this contract, subsequently, the manpower was reduced to 18 on closure of one pump room. Tenders for subsequent years could not be finalized since the workman had filed Writ Petition before the Hon'ble High Court of Madras and obtained order for status-quo. For the period 2009-2010, tender was issued to the Second Respondent. However, it could not be finalized and Lakshmi Electrical Enterprises continued to be the Contractor till their services came to be terminated on 04.04.2012. However, Lakshmi Electrical Enterprises is not made a party to the dispute. The Second Respondent is not a necessary party. The workman whose cause is being espoused by the petitioner committee were employed by Lakshmi Electrical Enterprises and they were working under the direct supervision and control of the said Contractor. At no point of time the First Respondent

controlled and supervised the concerned workers. As a result of modernization in the airport the situation has now changed also. The fire hydrant pumps have been demolished or their lines have been altered. The fire pumps are now connected to the remote controlled panel installed in the nearest control room and fire operators are posted round the clock in the event of any fire incident. In view of these changes, the service of Pump Operators deployed by the Contractors are not required. They were allowed to continue only because of the interim order granted by the High Court. On 04.04.2012 notice has been issued to Lakshmi Electrical Enterprises, the Contractor terminating the contract. There has been no post of Fire Pump Operator in Airport Authority of India. The contract entered into between the First Respondent and the Contractor is genuine and not sham or camouflage as alleged by the petitioner. The averment in the Claim Statement that the concerned workers were working under the First Respondent for a period of 2 to 5 years is not correct. The First Respondent never paid salary to the workers. They were paid wages by the Contractor. It is for the concerned workers to prove that they have worked for 480 days within a period of 24 calendar months. There is no merit in the dispute raised. The petitioner is not entitled to any relief.

5. In view of the contention raised in the Counter Statement that Lakshmi Electrical Enterprises was the Contractor, this concern has been subsequently impleaded as Third Respondent in the dispute. Both Respondents 2 and 3 remained absent and were set ex-parte.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Exts.W10 and Ext.M1 to Exts.M15.

7. The points for consideration are:

- (i) Whether the demands of the contract labourers who are working as Pump Operators for the First Respondent through Contractors are entitled to regularization on the roll of the First Respondent?
- (ii) What if any is the relief to which the concerned workers are entitled?

The Points

8. The dispute is raised by a committee consisting of 5 persons who were authorized by the 18 Fire Pump Operators said to have been working for the First Respondent for a period ranging from 2 to 5 years. The name of the Pump Operators (one out of them is said to have left) is annexed to the Claim Statement and is given alongwith the reference order also. According to these workers, though they were working through the so-called Contractor, they were directly reporting to the First Respondent and were being supervised and controlled by the First Respondent. It is alleged by them that the contract

through which they were made to work is only sham and nominal and the Contractor is only a name lender. It is claimed by these workmen that they are entitled to be regularized in the service of the First Respondent. It is admitted by the First Respondent that the concerned workers have been working for it as contract labourers. According to the Respondent, maintenance and operation of water supply system at the Chennai International Airport through contract labourers was started in 2004 itself and immediately before the dispute was raised the work was being carried out through the Third Respondent. It is not seen disputed by the First Respondent that the workmen in question were doing the work as alleged. However, the stand of the First Respondent is that there is not even the post of Fire Pump Operators for it and that the work was always carried out on contract basis. The workers were never under the supervision or control of the First Respondent. They were not paid wages by the First Respondent also. It is also contended by the First Respondent that in view of the modernization of the airport, the service of the Pump Operators provided by the Contractor are no longer required also.

9. The only question that arises for consideration is whether the case put forth by the petitioner that the contract entered into between the First Respondent and the respective contractors for providing service of workmen to the First Respondent to do the work including that of Fire Pump Operators under it is a sham and nominal one. It is to be seen whether the evidence oral and documentary available in the case would show that it is a case where the contracts are only a camouflage to avoid making the workers in question permanent under the First Respondent establishment. One of the five men committee of workmen representing the Fire Pump Operators involved in the case has given evidence as WW1. In the affidavit by him, he has reiterated the case in the Claim Statement. During his cross-examination he has admitted that he has worked with the First Respondent through Contractor. He admitted that other workers also had worked through Contractor. He admitted that he had worked with the First Respondent through the Third Respondent for the period from 01.08.2008 to 31.07.2009. During the period he was working with the First Respondent he has not received any memo or any notice from the officials of the First Respondent. He does not know if any memo was served to other workers by the First Respondent.

10. The counsel for the petitioner has attempted to make out that the documents available in the case would show that the contract in question was sham and nominal and actually the workers in question were working directly under the First Respondent. Before going through these documents, it is better to consider the legal position on the case put forth by the petitioner. Through various decisions rendered on the point, the Apex Court has stated under what circumstances a contract becomes sham and

nominal. The counsel for the petitioner has referred to the decision in STEEL AUTHORITY OF INDIA AND OTHERS VS. NATIONAL UNION WATER PLANT WORKERS AND OTHERS reported in 2001 7 SCC 1. The Apex Court has held in this that the appropriate authority to go into the question whether the Contract is sham and nominal will be the industrial tribunal. As a preliminary to the case advanced by him, the counsel has referred to the decision in HUSSAINBHAI VS. THE ALATH FACTORY THOZHILALI UNION AND OTHERS reported in 1978 4 SCC 257. In this decision the Apex Court speaking through Justice Krishna Iyer has stated that where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another that other is in fact the employer. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship is of no consequence, when on lifting the veil discern the naked truth that the real employer is the Management and not the immediate Contractor, it was held. The counsel has referred to the decision in BHARAT HEAVY ELECTRICALS LTD. VS. STATE OF UP AND OTHERS reported in 2003 6 SCC 528 where also it was held that where workman labour is engaged to produce goods or services and these goods or services are for the business of another, the other is the employer. The counsel has also referred to the decision in INDIAN OVERSEAS BANK VS. IOB STAFF CANTEEN WORKERS UNION AND ANOTHER reported in 2004 4 SCC 245 where it was held that the standards and nature of tests to be applied for finding out the existence of master and servant relationship cannot be confined or concretized into fixed formulae for universal application. In order to safeguard the welfare of the workmen the veil may have to be pierced to get at the realities, it has been held. The counsel has also referred to the decision in GENERAL MANAGER, ONGC, SILCHAR VS. ONGC CONTRACTUAL WORKERS UNION reported in 2008 12 SCC 275. In the above case the Tribunal has come to the conclusion that there existed master and servant relationship between ONGC and the Workers. This conclusion was arrived at based on the fact that there was no Contractor appointed by ONGC and the ONGC used to supervise and allot work to individual workers, took disciplinary action and called explanation from the workers. The workers were paid wages though they did not attend their duties during a bandh and during flood time and wages were paid directly to the workers by ONGC and the acquittance roll was prepared by ONGC itself to make payment to the workmen. The Apex Court has found that the workmen are actually the employees of ONGC and would be entitled to all benefits available in that capacity.

11. The counsel for the Respondent also has referred to certain decisions laying down under what circumstances a worker could be said to be working directly under the

concerned employer irrespective of a contract in existence, one being HALDIA REFINERY CANTEEN EMPLOYEES UNION VS. INDIAN OIL CORPORATION OF INDIA reported in (2005) 5 SCC 51. The dispute which resulted in the above decision was raised by the workers of the Canteen of Indian Oil Corporation Ltd. The workers were engaged by Contractor. The argument was that in spite of this, the Indian Oil Corporation Ltd. was having effective control over the Canteen. The Apex Court has observed that even though the Respondent Management does exercise effective control over the Contractor, on certain matter in regard to the running of the Canteen such control is being exercised to ensure that the Canteen is run in an efficient manner and to provide wholesome healthy food to the workmen in the establishment. This however does not mean that the employees working in the Canteen have become the employees of the Management, it was held. The counsel has also referred to the decision in INTERNATIONAL AIRPORT AUTHORITY OF INDIA VS. INTERNATIONAL AIR CARGO WORKERS UNION AND ANOTHER reported in 2009 13 SCC 374. Here it was held that if Contract is for supply of labor, necessarily, labour supplied by Contractor will work under directions, supervision and control of principal employer but that would not make worker a direct employee of principal employer, if salary is paid by a Contractor, if right to regulate employment is with the Contractor and ultimate supervision and control lies with the Contractor. Reference was also made to the decision in GENERAL MANAGER, BENGAL NAGPUR COTTON MILLS VS. HARIT LAL AND ANOTHER reported in 2011 1 SCC 635 where it was observed that two of the well recognized tests to find out whether the contract labourers are the direct employees of the principal employer are (i) whether the principal employer pays the salary instead of the Contractor and (ii) whether the principal employer controls and supervises the work of the employee. The counsel has also referred to the decision of the Madras High Court in DIRECTOR, INTERNATIONAL AIRPORT AUTHORITY OF INDIA VS. ELANGO VAN AND OTHERS in Writ Appeal 574/11 dated 27.03.2014. In the above decision of the Supreme Court in INTERNATIONAL AIRPORT AUTHORITY OF INDIA referred to earlier was relied upon. The High Court has found that the workers in question failed to plead and prove that they were paid wages by the Appellant. In fact it was a case involving the present first respondent herein and the lift operators of the airport. The High Court has found that the contract under consideration is a genuine one and not a camouflage and found that the workers are working under the Contractor and they are the workers of the Contractor even though they were working for the Airport.

12. In the light of judicial pronouncements put forth, it is to be seen whether the petitioners are workers of the Respondent itself and whether the contract in question is

only a camouflage. The contract itself is marked as Ext.M5(a). It has been pointed out by the Counsel for the Respondent that the same contract has been put to test before this Tribunal in another dispute raised by another section of workers and that the case that the Contract is only a camouflage was rejected by this Tribunal.

13. The attempt for the counsel for the petitioner has been to establish that actual control of the workers is by the Respondent itself even though an intermediary by way of contract is placed in between the petitioners and the First Respondent. In this respect the counsel has referred to the extracts of the Report Register, the Log Book, etc. produced before this Court. Ex.W6 is the extract of the Report Register. The margin of the first page of this document contains certain instructions purportedly made by the employee of the First Respondent. The next two pages also contain some such instructions and report regarding the condition of the machines. One such report is to remove the Sprinkler Main Motor. Ext.W8 is the remark made by the Engineer of the First Respondent. This states that without reliever the person on duty left the installation and that the morning duty operator was not found at site. There is also a statement that not following the duty instructions and duty timing will be viewed seriously. The next page of this document also states that the person on duty left the installation without reliever and the morning duty operator was not found at site. There is also an instruction not to sign the records without intimation to the concerned. Ext.W9, the extract of the Report Register is said to be checked by the employees of the First Respondent. The margin of this document contains signature showing that someone has done the checking. The counsel has also referred to Ext.W10 the Attendance Register which according to him is maintained by the First Respondent. The counsel has also referred to Ext.M5(a), Page-106 referring to the Safety Code and Labour Regulation. Clause-8(i) of this states that the agency who is entering into the contract shall submit the credentials of the staff proposed for engagement at work for verification of the concerned Police Officer. Clause-8(iii) states that duty roster shall be got approved from the Engineer-in-Charge and that the roster may be changed by Engineer-in-Charge as and when required.

14. On the basis of the facts pointed out above, it has been argued by the Counsel for the Petitioners that this would show that the First Respondent is having effective control over the petitioners. The counsel for the First Respondent has referred to Ext.W10, the Attendance Register and pointed out that the name of the Contractor is shown in the Attendance Register as name of the employer (Page 141 onwards of the typed set of the petitioner). The counsel has also pointed out that for each work shift there will be a different Engineer and each of them will be making a note of what happened in each shift. It has been pointed out that no explanation is asked from

the workers regarding any fault committed by the workers in their work or any misconduct on their part. The counsel has referred to the evidence of WW1 asserting that no memo or notice has been served on him by the officials of the First Respondent. He himself has admitted that the officials only used to record what is going on in each shift. He also stated that in Ext.W7 also what had happened in the shifts have been recorded. Thus it could be seen that no disciplinary control was ever exercised by the First Respondent over the workers. On the other hand, such control used to be exercised by the concerned Contractor.

15. There is no case for the petitioners also that their salary was paid to them by the First Respondent. According to WW1, he was given salary by a Supervisor by name Appandairajan i.e. the Second Petitioner. He stated that he was not aware who was paying salary for Appandairajan. He also stated that he was working for the First Respondent through the Contractor only. The Second Petitioner who was acting as Supervisor was paying salary to WW1, the Third Petitioner. It is clear that salary was being paid by the Contractor itself.

16. The counsel for the First Respondent has referred to Clause-18 of Ext. M5(a) which states that the Contractor shall obtain valid license under the CLRA Act and Rules before the commencement of the work and continue to have a valid license until completion of the work. Reference was also made to Clause-19(A), Sub-Clause (a) which states that the Contractor shall pay to labour employed by him either directly or through Sub-Contractors wages not less than fair wages. Reference was also made to Sub-Clause (e) which states that the Contractor shall comply with the provisions of Minimum Wages Act, etc. Reference was also made to Clause-19H which provide that the Engineer-in-Charge may require the Contractor to dismiss or remove from the site of the work any person or persons in the Contractor's employment upon the work who may be incompetent or misconduct himself and the Contractor shall comply with such requirements. Under the heading Particulars Specification in Ext. M5 (a) (Page 102) it is stated that the staffs shall have proper contact with fire safety wing of AAI for fire safety for Airport. The Log Books and other Registers regarding labour regulations including Daily Attendance Register, Duty Roster, etc are also to be maintained by the Contractor.

17. What the evidence and documents reveal is that there was express contract between the First Respondent and the concerned agency regarding the work to be done and it was the agency acting as Contractors who were employing the petitioners. At no point of time they were directly employed by the First Respondent. They were never under the direct control of the First Respondent. No disciplinary authority was ever exercised by the First Respondent upon the petitioners. If some check was made by the Officers of the First Respondent regarding the work

done by the petitioners and others it was to see that the work was done properly. It was in the interest of the First Respondent to see that the workers employed by the Contractor are working satisfactorily. The Apex Court has held in the International Airports Authority of India case referred to earlier that if contract is for supply of labour, labour supplied by the Contractor will necessarily be under directions, supervision and control of principal employer but that would not make the worker a direct employee of principal employer.

18. In Hussainbhai's case referred to earlier the Apex Court has laid down that where a worker or group of workers/labours to produce goods or services and these goods or services are for the business of another that another is in fact the employer. In the subsequent decisions, the criteria for finding out whether the work is on contract or otherwise was laid down. When the present case is considered based on this criteria it could be seen that the petitioners and others were never employed by the First Respondent. They were always working for the Contractor. They were doing so consciously. It was for the Contractor to decide which workers are to work in a particular establishment and in what manner. They were always controlled by the Contractor. So the argument that is advanced on behalf of the petitioners. That if the veil is lifted it could be seen that they are employed by the First Respondent itself could not be accepted. The criteria laid down by the Apex Court does not support such a conclusion. So the claim of the petitioners and others alongwith them that they are to be treated to be permanent employees of the First Respondent could not be accepted. The petitioners are not entitled to any relief.

The reference is answered against the petitioners.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st May, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1 st Party/Petitioner	: WW1, Sri Arul Mozhi Varman
For the 2 nd Party/1 st Management	: MW1, Sri E. Namadevan
For the 2 nd Party/2 nd & 3 rd Management	: None

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ex.W1	10.12.2009	Resolution passed by the employees

Ex.W2	30.09.2011	Order in WP No. 27517 of 2009	Éx.M8	30.09.2011	Order passed in WP 27517/09
Ex.W3	04.09.2012	Order in WP No. 22067 of 2012	Ex.M9	14.03.2012	Order of reference issued by Central Govt. for adjudication of the disputes
Ex.W4	19.11.2012	Order in MP No. 1 and 1 of 2012 in WAs Nos. 18 and 2016 of 2012			
Ex.W5	-	Gate passes issued to the employees	Ex.M10	04.04.2012	Termination of the contract with effect from 04.04.2012
Ex.W6	-	Extract from report register	Ex.M11	09.04.2012	Legal notice issued by the Counsel for Petitioners
Ex.W7	-	Extract from Log Book			
Ex.W8	-	Remark made by the engineer of the 1 st Respondent	Ex.M12	17.04.2012	Corrigendum issued by AAI Sr. Manager to Lakshmi Electrical Enterprises
Ex.W8(a)	-	Work spot checked by A.M. (Elect) during different hours	Ex.M13	18.04.2012	Reply issued by AAI for the notice given by Workmen's dated 09.04.2012
Ex.W9	-	Extract from report register			
Ex.W10	-	Attendance register from March 2011 to August 2011	Ex.M14	20.04.2012	Letter from the Contractor Lakshmi Electrical Enterprises to the AAI surrendering the Log Books and Original passes given to the workmen

On the Management's side

Ex.No.	Date	Description	
Ex.M1	12.05.2004	Contract entered between AAI and ARB Safety Designers and Consultants (P) Ltd. for the period from 01.08.2004 to 31.07.2005	Ex.M15 23.04.2012 Letter from the Contractor to AAI affirming that the contract was terminated on 04.04.2012
Ex.M2	28.07.2005	Contract entered between AAI and ARB Safety Designers and Consultants (P) Ltd. for the period from 01.08.2005 to 31.07.2006	नई दिल्ली, 17 जून, 2014
Ex.M3	08.06.2006	Contract entered between AAI and Reliance Fire Protection Systems for the period from 01.08.2006 to 31.07.2007	का.आ. 1759. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेट लाइफ इंडिया इन्शुरन्स कंपनी लिमिटेड के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 39/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।
Ex.M4	23.07.2007	Contract entered between AAI and ARB Safety Designers and Contractors (P) Ltd. for the period from 01.08.2007 to 31.07.2008	[सं. एल-17012/12/2012-आईआर (एम)] जोहन तोपनो, अवर सचिव
Ex.M5	30.07.2008	Contract entered between AAI and Lakshmi Electrical Engineers for the period from 01.08.2008 to 31.07.2009	New Delhi, the 17th June, 2014
Ex.M5(a)	29.08.2008	Xerox copy of the agreement enclosed separately	S.O. 1759. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2012) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Met Life India Insurance Company Limited and their workman, which was received by the Central Government on 6/6/2014.
Ex.M6	30.12.2009	Order passed in MP No. 2/09 in WP 27517/09	
Ex.M7	13.06.2011	Cancellation of tender of M/s RD Electrical Engineering Works by AAI	[No. L-17012/12/2012-IR(M)] JOHAN TOPNO, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**Monday, the 19th May, 2014**Present :—K. P. PRASANNA KUMARI, Presiding Officer****Industrial Dispute No. 39/2012**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Met Life India Insurance Co. Ltd. and their workman)

BETWEENSri K. Durai : 1st Party/Petitioner**AND**

The Chief Executive Officer : 2nd Party/Respondent
M/s Met Life India Insurance
Company Ltd. Brigade
Seshanmahal No. 5, Vani Vilas
Road Basavangudi
Bangalore-560004

APPEARANCE:

For the 1st Party/Petitioner : Sri R. Parthiban,
C.Vigneswaran,
Advocates

For the 2nd Party/Management : Sri V. T. Narendran,
R. P. Prathap Singh,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-17012/12/2012-IR(M) dated 28.06.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of M/s. Met Life India Insurance Company Ltd. in terminating the services of Sri K. Durai, Financial Planning Consultant w.e.f. 28.05.2009 is legal and justified? What relief the workman is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 39/2012 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was appointed as Financial Planning Consultant in the respondent Company and was posted to work from Villupuram branch of the Axis Bank with a salary of Rs. 1,44,000/- annually. The petitioner had been performing reasonably well during his employment. On 06.05.2009 Abraham Nixon, a Sr. Sales Manager of the Company visited Villupuram branch of Metlife and compelled the petitioner to sign plain papers so as to make him resign his post. The petitioner refused to do so. As directed by Abraham Nixon, the petitioner had visited the Territorial Manager of the Respondent on 08.05.2009. There also the petitioner was threatened and forced to sign plain papers. The petitioner had not obliged. On 11.05.2009, the petitioner had been to the Villupuram Branch to attend to his work but the Manager of Axis Bank, Villupuram told him to leave the office at once. The petitioner sent a telegram and e-mail to the HR Department of Metlife narrating the events of 11.05.2009. On 15.06.2009 the petitioner received three covers, one of which contained an order terminating him from service of Metlife. There were two other backdated letters seeking explanation for the absence of the petitioner. The petitioner had sent representation to the Respondent Company requesting to revoke the order of termination and to allow the petitioner to continue in service. Though the petitioner had received e-mail informing that his complaint had been forwarded to employee complaint framework, he had not received any reply to the same. The petitioner had raised a dispute before the Asstt. Labour Commissioner (C), Chennai. On failure of conciliation and consequent failure report to the Govt., the Govt. has referred the matter for adjudication by the Tribunal. An order may be passed directing the Respondent to reinstate the petitioner in service with back wages.

4. The Respondent has filed Counter Statement contending as follows:

The Respondent is a multi-national company engaged in the business of life insurance and is licensed by the Insurance Regulatory Authority of India. The petitioner's designation in the Respondent Company is synonymous to that of a Sales Manager. He was stationed at the branch office of the Axis Bank who was the corporate agent of the Respondent. He was required to report at the Branch Office punctually and was also required to follow the timelines of the Axis Bank for discharging his duties. The petitioner cannot be termed either by his designation or by nature of his job as a workman as defined in the Industrial Disputes Act. In his job the petitioner was expected to achieve allocated business targets, generate more business through sales promotions, etc. His salary was fixed as Rs. 1,44,000/- per annum. He was working independently without day to day scrutiny, supervision or direction. His job required ability to use his intellectual capability. It was not clerical in nature. So the claim of the petitioner is not tenable. In the year 2008 there was some

allegations against the petitioner by the policy holders. His performance has gone down below the expectations. The senior official of the petitioner was unhappy with the attitude and performance of the petitioner. The petitioner was unauthorizedly absent from duty from 12.05.2009 after sending a telegram leveling some false allegations against the official of the Respondent. The Respondent has sent notice to the petitioner on 15.05.2009 asking him to report to duty. This notice was returned undelivered. On 20.05.2009 another letter was sent asking him to report to duty but this also was returned undelivered. In this circumstance, the Respondent had terminated the service of the petitioner from 28.05.2009, in accordance with law. The petitioner had abandoned his job. He had failed to report for work without instructions and permission from the Respondent. It is incorrect to state that the officials of the Respondent had compelled the petitioner to sign blank papers. The petitioner is not entitled to the relief of reinstatement or any other reliefs claimed by him.

5. The petitioner has subsequently amended the claim statement claiming incentives also alongwith back wages on reinstatement.

6. The evidence in the case consists of oral evidence of the petitioner examined as WW1 and documents marked as Ext.W1 to Ext.W16 and Ext.M1.

7. The points for consideration are:

- (i) Whether the action of the Respondent in terminating the service of the petitioner is legal and justified?
- (ii) What is the relief, if any to which the petitioner is entitled?

The Points

8. The petitioner was admittedly working as Financial Planning Consultant of the Respondent Company from 16.03.2007 for an annual salary of Rs. 1,44,000/-. The petitioner had worked with the Respondent till 11.05.2009. According to the petitioner there was some coercion on the part of certain higher officials of the Respondent to make him sign papers to put an end to his job with the Respondent to which he has not obliged. However, according to him when he went for his work at Axis Bank, Villupuram Branch where he was posted, he was turned out by the Manager of the Axis Bank. On the other hand, the contention of the Respondent is that the petitioner was unauthorizedly absent from duty after 11.05.2009 and had failed to turn up for work thereafter. Even though letter were sent to him seeking explanation to this absence, these were returned undelivered. So the Respondent had terminated the service of the petitioner, it is stated. According to the Respondent it was a case of abandonment of service by the petitioner and it was only as a consequence that his service was terminated.

9. Apart from the above contentions on merits, there is also a case for the Respondent that the petitioner is not a “workman” coming under the definition of ID Act and therefore, he is not competent to raise the dispute. The stand of the Respondent is that the petitioner is working independently, that the nature of his work requires intellectual capacity and his work is not clerical in nature that he is not subjected to day to day scrutiny or supervision or direction and is acting in an independent manner. The nature of the work of the petitioner are narrated in the counter statement. These include achieving allocated business targets, generating new business, participating in sales planning, ensuring high level of customer service and such connected activities. These are narrated by the respondent to show that the job of the petitioner is not clerical in nature.

10. Ex.W12 is the appointment order of the petitioner. The designation of his job is given as Financial Planning Consultant. His annual emoluments including salary are given in the appointment order. There is no mention of the nature of the job given in the Counter Statement in Ext.W12.

11. In the Counter Statement what is stated is that the petitioner’s designation is equivalent/synonymous to that of a Sales Manager. It is further stated that for all purpose the petitioner is enjoying the status, privileges and benefits of that of a Sales Manager of a multinational company. It is pointed out by the Counsel for the Petitioner even as claimed by the Respondent, the job of the petitioner is equivalent to that of a Sales Manager and not similar to or the same as Sales Manager.

12. What exactly is the nature of the job of the petitioner? Though the petitioner is the employee of the Respondent, Metlife India Insurance Co. Ltd. he was posted at Villupuram Branch of Axis Bank and is operating from this branch. His actual job seems to have been to canvass policies with the help of Axis Bank who was acting as Corporate Agent of the Respondent. A designation which is probably misleading that is Financial Planning Consultant has been given to the job of the petitioner. Is such nomenclature given to the job enough to decide what actually is the nature of the job? The counsel for the petitioner has referred to decision in MOHAN MEAKIN LTD VS. PRESIDENT, MOHAN MEAKIN STAFF UNION AND OTHERS reported in 2012 5 LLN 694 in this respect. Here it was held that to decide whether a person is workman or not undue importance should not be given to the designation of name assigned to the class to which he belongs. What is needed is to find out what kind of duty such person was performing, what was his source of employment, what are the terms and conditions of employment, what is the quantum of wages, etc. and decide whether the person is workman within the meaning of Section-2(s) of the ID Act, it was further held.

13. What actually was the work done by the petitioner? During his cross examination, he has stated

that as a Financial Consultant he has annual targets. The nature of his job is to give policy to prospective customers. The Respondent Company used to send communications to him. There is no case for the Respondent that the petitioner was having any subordinates under him. So necessarily he was not working in supervisory capacity. He was the sole person posted at Villupuram branch of Axis Bank. Though the petitioner was not signing the Attendance Register it is clear from Ext.W2 the letter written by the Respondent that records of attendance were being maintained by the Respondent. What is written in this letter is that based on the attendance records of the petitioner it has been observed that he has not been reporting for duty. The counsel for the petitioner has referred to the decision of the Apex Court in ANAND REGIONAL COOPERATIVE OILSEED GROWERS UNION LTD. VS. SHAILESH KUMAR HARSHADBHAI SHAH reported in 2006 6 SCC 548 in support of his argument. Here it was held that in determining the nature of work of the person it is to be seen what are the primary duties he is performing and it is necessary to prove that there were some persons working under him whose work is required to be supervised. If a person is carrying on supervisory work and if he has power of control or supervision in regard to recruitment, promotion, etc. the work involves exercise of tact and is independent in nature, it was held. In the present case, the petitioner has not been working in any supervisory capacity, he had no power of control or supervision in regard to recruitment, promotion, etc. Apart from this is the fact the salary that was payable to him was meager in the present circumstances. He was paid below Rs. 12,000/- a month only as salary. Taking all this into account the petitioner will certainly come under the definition of workman as given in Industrial Disputes Act.

14. Ext.W4 is the order of the Respondent by which the petitioner was terminated from service. This refers to letters dated 14.05.2009 and 20.05.2009 and states that those were letters calling upon the petitioner to report for duty immediately and provide clarification for his unauthorizedly absence since 12.05.2009. It is stated that the petitioner has not resumed duty, nor provided any clarification and his absence is treated as voluntary abandonment of service and his employment is terminated with effect from 12.05.2009. Admittedly, the Respondent has not conducted any enquiry before terminating the petitioner from service.

15. Was it a case of abandonment of service by the petitioner? In the Claim Statement as well as the Proof Affidavit filed by him the petitioner has stated that he has not received any prior communication seeking explanation. Both in the Claim Statement as well as in the Affidavit he has stated under what circumstances he was not able to continue in his job after 11.05.2009. He has stated that there was compulsion to make him sign blank papers which he refused and that subsequently when he had gone to his place of job attached to Villupuram Branch of

Axis Bank he was turned out by the Manager. It is clear from the document produced by petitioner that there was some issue between him and his superior Officers. On 11.05.2009, the date on which he had to stop attending his job itself he has sent a telegram to the Respondent as seen from Ext.W1. The contents of the telegram is also available alongwith Ext.W1, the telegram receipt. This itself will show that it was not a case of the petitioner abandoning the job.

16. Exts.W2 to Ext.W4 also reveals that the case of abandonment by the petitioner was one created by the Respondent. The petitioner has stated in the Claim Statement that he has received two letters seeking explanation for unauthorized absence also alongwith the order of termination from service. Ext.W2 dated 14.05.2009 and Ext.W3 dated 20.05.2009 were received by the petitioner alongwith Ext.W4, the termination order on 15.06.2009 as seen from Ext.W5 the courier receipt. The case of the Respondent itself is that the letters seeking explanation were returned undelivered. But as seen from Ext.W2 and Ext.W3 these were received by the petitioner though alongwith Ext.W4. So it could not have been a case of abandonment of the job by the petitioner. He must have been forced to discontinue from service for some other reason. According to him he was turned out by the Manager of the Axis Bank branch, Villupuram when he reached his place of work on 11.05.2009. This case of the petitioner is not denied by the Respondent by giving evidence either documentary or oral. So the case of the petitioner in this respect is to be accepted.

17. In any case it could be seen that the Respondent was in a hurry to stamp the petitioner as a person who was unauthorizedly absent from duty. Even according to the Respondent, the petitioner had been absent from 12.05.2009 only. The Respondent had prepared a letter on 14.05.2009 itself alleging that the petitioner is unauthorizedly absent. This was followed by another letter dated 20.05.2009. Even though according to the Respondent these letters were not served, the Respondent did not make any attempt to reach the petitioner by some other means. There is no case that he was either contacted by telephone or by his e-mail address. Within a few days of the second letter seeking explanation the Respondent sent the letter terminating the service of the petitioner. Thus it is very much clear that the Respondent was bent upon putting an end to the service of the petitioner under one or the other pretext. In the Counter Statement what the Respondent has stated is that there were allegations against the petitioner by policy holders. This is too vague in nature without specifying even the nature of allegations. The next sentence in the Counter Statement probably reveals what actually was the reason for throwing the petitioner out from service. What is stated is that the performance of the petitioner has come down below the expectations. But here also the Respondent has not stated what was the

expectations or how much it has come down. It was a case of the Respondent turning out the petitioner from service unceremoniously without any valid reason, without any enquiry, without even the pretext of an enquiry. The petitioner is entitled to be reinstated in service.

18. At the late stage of the trial the Respondent has wanted to call the statement of bank account of the petitioner. The petitioner had produced extract of the account at the instance of the Respondent and this has been marked as Ext.M1. Of course the case of the petitioner during his examination is that he was not employed after he was terminated from service of the Respondent. However, it is seen from the statement of the account that he was regularly drawing salary from some other establishment from November 2011. So the petitioner is not entitled to any back wages after November 2011. The petitioner seems to have been not working prior to November 2011. So he is entitled to back wages for the period. The back wages payable to him is fixed as 50% of the wages with incentives that have been payable to him.

19. The counsel for the Respondent has been arguing that the petitioner is even now working in another establishment and is drawing salary which is higher than that he was drawing while he was with the Respondent. As seen from the extract of the account, he is getting salary much better than what he was getting from the Respondent. However, the case of the petitioner during his examination on recalling is that the establishment in which he was working has been sold and he is now without job again. The petitioner having been turned out from service without any reason by the Respondent he is certainly entitled to reinstatement in service. In the alternate the Respondent can pay him Rs. 2.00 lakhs as compensation. Accordingly an award is passed as follows:

The Respondent is directed to reinstate the petitioner in service or pay him compensation of Rs. 2.00 lakhs in the alternative. The Respondent shall also pay 50% of back wages to the petitioner with incentives payable, from the date of termination till November, 2011. The amounts payable will carry interest @ 9% per annum if not paid within a month.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th May, 2014)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri K. Durai

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	11.05.2009	Telegram sent by the petitioner to the Respondent alongwith receipt given by BSNL
Ex.W2	14.05.2009	Letter sent by the Respondent to the Petitioner alongwith cover
Ex.W3	20.05.2009	Letter sent by the Respondent to the Petitioner alongwith cover
Ex.W4	28.05.2009	Letter by the Respondent to the Petitioner alongwith cover
Ex.W5	-	Courier receipt by ST couriers (Xerox)
Ex.W6	16.06.2009	Letter by the petitioner to the Respondent with acknowledgement card
Ex.W7	17.06.2009	E-mail from the Respondent to the petitioner
Ex.W8	29.06.2009	Letter by the petitioner to the Respondent with acknowledgement card
Ex.W9	22.07.2009	Letter by the petitioner to the Respondent with acknowledgement card
Ex.W10	16.06.2009	Letter by the petitioner to the Respondent with acknowledgement card
Ex.W11	29.06.2009	E-mail from the Respondent to the petitioner
Ex.W12	15.03.2007	Appointment letter issued to the petitioner by the Respondent Management
Ex.W13	-	Payment slip for the month of August, 2007
Ex.W14	-	Payment slip for the month of September, 2007
Ex.W15	-	Payment slip for the month of October, 2007
Ex.W16	-	Payment slip for the month of April 2009

On the Management's side

Ex.No.	Date	Description
		Nil

नई दिल्ली, 17 जून, 2014

का.आ. 1760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 172/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-17012/16/84-डी.-IV-ए]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 172/90) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-17012/16/84-D-IV-A]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/172/90

Presiding Officer: SHRI R.B.PATLE

General Secretary, Indore Division
Insurance Employees Association,
59, Bima Nagar, Indore.

... Workman/Union

Versus

Divisional Manager, Life Insurance
Corporation of India, 19, MG Road,
Indore`

... Management

AWARD

(Passed on this 13th day of May 2014)

1. As per letter dated 31-7-90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-17012/16/84-D-IV-A. The dispute under reference relates to:

“ Whether the action of the management of Life Insurance Corporation of India (Divisional Office), Indore in not allowing the workman Shri R.B.Verma, Asstt. to cross efficiency Bar in pay scale of

Rs.175-10-215-15-290-20-410-EB-25-585 w.e.f. 1-1-1979 & 1-1-1980 is justified? If not, to what relief is the workman entitled to?”

2. After receiving reference, notices were issued to the parties. Statement of claim is filed by Employees Association on behalf of workman at Page 13/1 to 13/7. Case of Ist party Association is workman R.B.Verma was working as Assistant in Indore Divisional Office of IInd party. He was appointed in December 1960. Workman after reaching the basic pay of Rs. 410 on 1-1-1978 in the pay scale of Rs.175-10-215-15-290-20-410-EB-25-585 was entitled to receive annual increments due on 1-1-79 & 1-1-80 after crossing Efficiency Bar. IInd party did not allow him to cross the Efficiency Bar and increments were not released by the IInd party. As per Regulation 56(3) of the Staff Regulations, the decision to allow him to cross the Efficiency Bar would be taken only by Divisional Manager being the Competent Authority. The said provision was that the decision not allowing workman to cross efficiency bar was taken by someone else and not by the competent authority. The decision is void-ab-initio. Workman had submitted repeated representations dated 12-1-81, 16-1-81. That workman had given more output of work but his claim was mechanically rejected.

3. That IInd party not supplied copy of Appellate Authority acted contrary to the Staff Regulation No.49. Workman submitted memorandum to LIC, Chairman dated 3-7-81 with comparative data of disposal by him and his assistants. The memorandum dated 3-7-81 was neither rejected nor allowed despite of lapse of more than 9 years.

4. The efficiency bar of workman was removed in 1983 by IInd party as per letter dated 16-4-83. Workman had requested to reconsider his efficiency bar w.e.f. 1-1-1979. His request was still pending. The workman received letter dated 7-2-85 from Ministry of Labour informing that he was not allowed to cross efficiency bar from 1-1-1979 as disciplinary proceeding was pending against him. Workman has stated that disciplinary proceeding was pending against him related to availing LTC of Rs. 60.20. IInd party had imposed penalty of withholding his 2 increments as per order dated 30-12-88. It is reiterated that workman was denied efficiency bar without considering his performance in duty, merely as disciplinary enquiry was pending and workman has suffered loss of increments from 1979 onwards estimating Rs. 40,000. Workman is claiming that he may be granted Efficiency Bar w.e.f. 1-1-1979 and further increments.

5. Union has submitted rejoinder at Page 14/1 to 14/6, 18/2 to 18/6. Ist party also submitted rejoinder at Page 21/1 to 21/6 reiterating its contentions in statement of claim. That the workman was denied Efficiency Bar in violation of the rules without appreciating his performance.

6. IInd party filed Written Statement at Page 6/1 to 6/6. IInd party submits that matter of increment and

crossing Efficiency Bar is covered by rule 56(3) of LIC Staff Regulation 1960. The increment in an incremental scale where there is an efficiency bar cannot be claimed by an employee as a matter of right. Withholding of an increment at the efficiency bar does not amount to punishment. It is not necessary to communicate the ground for not allowing employee to cross efficiency bar. Drawing of increments by an employee if there is an efficiency bar depends upon the issue of a certificate of fitness issued by the Competent Authority. For issuing fitness certificate, guidelines are laid down by Central office LIC. As per instructions, issue of certificate of fitness at efficiency bar, the Appointing Authority takes into consideration the work record for last 3 years. That the employee obtaining less than 24 marks out of 40 as per Confidential Report is not considered fit to cross efficiency bar. The rule was followed in the matter of workman. He had received less than 24 marks. He is not found fit to cross efficiency bar. By amendment, IInd party pleaded that workman received less than 24 marks. His annual report for the year 1976 to 1978 were found average, below average. It was not necessary to obtain explanation of workman in the matter of certificate of fitness. Denial of efficiency bar to workman is not vitiated on any ground. The representations are submitted by workman are considered by the Competent authorities. IInd party prays for rejection of claim.

7. Ist party also carried consequential amendment in statement of claim. It is submitted that enquiry conducted against workman is vitiated vide order dated 30-12-88 in Case No. R/5/87 by this Tribunal. Workman was issued chargesheet only with the motive to give him less mark in the matter of crossing efficiency bar. Only on the ground of pendency of Enquiry proceeding, workman could not be denied efficiency bar. Other employees were not denied efficiency bar who were facing Departmental Enquiries.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | | |
|------|---|---------------------------------------|
| (i) | Whether the action of the management of Life Insurance Corporation of India (Divisional Office), Indore in not allowing the workman Shri R.B.Verma, Asstt. to cross Efficiency Bar in pay scale of Rs.175-10-215-15-290-20-410-EB-25-585 w.e.f. 1-1-1979 & 1-1-1980 is justified? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

9. Ist party Association raised the present dispute relating to denial of efficiency bar to workman Shri R.B.Verma, Assistant. The exhaustive affidavit of evidence of Shri R.B.Verma is filed. That he joined service as LIC Assistant in 1960. He was getting annual increment every year as per the pay scale Rs.175-10-215-15-290-20-410-EB-25-585. That his annual increment due on 1-1-1979 was withheld by Asstt. Divisional Manager vide letter dated 30-1-79. IInd party with held 2 annual increments on 1-1-1979, 1-1-1980 permanently as efficiency bar was not removed. His further affidavit is devoted about his representations to the authorities were not considered. Union given notice and proceedings before conciliation officer. That workman Shri R.B.Verma Assistant was served with a chargesheet was allowed to cross efficiency bar. He also referred to award passed by CGIT, Bombay. He has further stated about arrear of work he had cleared without availing leave. That he was not habitual late comer. He was punctual in attendance during 1976 to 1978. The penalty imposed against him by Competent Authority debiting leave was not proper. The annual reports were not served on him to give him opportunity of increment. Withholding two annual increments permanently caused financial loss to him. Workman has not been cross-examined. Counter affidavit filed by Hakimuddin Saifee for management supporting the contentions of management of IInd party. The witness was also not cross-examined. Management's witness Shri Shreepad Dattatrya Apte filed affidavit of evidence supporting contentions of management. Management's witness has stated that the confidential reports of workman Shri R.B.Verma during relevant years were average on almost all items except in the matter of punctuality in attendance. He was found below average during 1976 & 1978. The copies of confidential reports and letters are produced. In his cross-examination, management's witness says the average remarks of workman remains in Form No. 222. In 1977, there was no adverse remark. In confidential report of 1977 of workman in warning column, adverse remark is found. The positive or adverse reports are given considering work performance. He denies that if there is no warning average remark cannot be given. The adverse remark in 1977 in CR of workman was not returning form 222. The punctuality in attendance relates to the devotion to the time. The confidential reports of employees must be objective. The entire cross-examination of management's witness is devoted about how confidential reports should be written and its gradings and other details. The entire cross-examination does not indicate that the confidential reports of workman during 1976 to 79 were adverse. The chargesheet was also issued to the workman in 1976 for fraudulent claim of LTC of workman. Considering the evidence on record, when confidential report of workman were adverse, chargesheet issued to him in the matter of

fraudulent claim of LTC, the enquiry was pending, withholding Efficiency Bar of workman at the relevant time 1-1-1979 cannot be said illegal. As the workman was not allowed to cross efficiency bar, the denial of increment as on 1-1-1980 was inevitable. It cannot be said illegal. For above reasons, I record my finding in Pont No.1 in Affirmative.

10. In the result, award is passed as under:-

(1) The action of the management of Life Insurance Corporation of India (Divisional Office), Indore in not allowing the workman Shri R.B.Verma, Asstt. to cross efficiency Bar in pay scale of Rs.175-10-215-15-290-20-410-EB-25-585 w.e.f. 1-1-1979 & 1-1-1980 is proper.

(2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1761.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 58/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-17012/16/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2013) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-17012/16/2013-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 58 of 2013

PARTIES:—Employers in relation to the management of Life Insurance Corporation of India

AND

Their workman.

Present:— JUSTICE DIPAK SAHA RAY

....Presiding Officer

APPEARANCE:

On behalf of the Management : Mr. D. K. Pal, Ld. Counsel.

On behalf of the Workmen : None

State: West Bengal. Industry: Life Insurance.

Dated: 20th May, 2014.

AWARD

By Order No. L-17012/16/2013-IR(M) dated 28.10.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Life Insurance Corporation of India in terminating the services of Shri Arpan Chatterjee, working as Development Officer on probation, is legal and justified? What relief the workman is entitled to?”

2. When the case is taken up for hearing today, none appears on behalf of the workman through the management is represented by its Ld. Counsel. It appears from the record that the workman is absent since 03.02.2014, i.e., for three consecutive dates.

3. The conduct of the workman goes to show that he is not at all interested to proceed with this reference case further. Perhaps he has got no grievance against the management at present.

4. In view of the above, instant reference is disposed of by passing a “No Dispute Award”

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 20th May, 2014.

नई दिल्ली, 17 जून, 2014

का.आ. 1762.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ. एन. जी. सी, लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एव श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 180/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-30011/52/2006-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 180/2006) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of O.N.G.C. Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-30011/52/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT: SHRI BINAY KUMAR SINHA,
Presiding Officer,
Ahmedabad,

Dated: 16th April, 2014

Reference (CGITA) No-180/06

Reference adjudication order no. L-30011/52/2006-IR(M)

1. The Asset Manager, ONGC Ltd,
Ankleshwar Asset, Ankleshwar
(Gujarat)
2. The Executive Director (RM),
ONGC, WRBC, Makarpura Road,
Head Reg off. Baroda
(Gujarat)-390009First Party

And

Their Workman

Sh. Arvindkumar Natwarlal
Barot Through the Secretary,
Kamdar Hit Rakshak Sangh,
64, Rabari Colony, Odhav,
Ahmedabad (Gujarat) 382415Second Party

For the First Party:- Shri Kishor V. Gadhia,
Advocate Shri Mahindra
K. Patel, Advocate

For the Second Party:- Shri Ashwin J. Bhatt, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi vide its order No. 30011/52/2006-IR (M)) dated 15.09.2006 referred the dispute for adjudication to this Tribunal in respect of the matter specified in the Schedule:-

SCHEDULE

“Whether the action of the management of ONGC Ltd, Ankleshwar Asset, Ankleshwar in terminating

the services of Sh. Arvind kumar Natwarlal Barot w.e.f. 11.11.1998 is legal, proper and just? If not, to what relief the concerned workman Sh. Arvindkumar Nawaralal Barot is entitled to?”

2. The case of the 2nd party (workman) as per statement of claim (Ext.8) is that he from 07.01.1987 to 06.10.1988 was working as apprentice in the 1st party organisation under National Apprentice scheme of A.C. (Mechanical) trade. After tenure of apprenticeship he was engaged in electrical workshop as workman till 1990 and he continuously an uninterruptedly did work. Thereafter he was transferred to accounts department and worked as clerk continuously till 10.11.1998. He completed 240 days works in each calendar year. He was working under supervision and control of the officers of ONGC Ltd., Ankleshwar. His attendance was made on muster roll and he was paid monthly wages through voucher. There was no complaint to employer (ONGC Ltd.) regarding his work and his service record was clean. He was doing works alike regular staff of the 1st party organisation but was paid less wages and was not given benefits as that of regular employee. He for regularisation of his service filed S.C.A. No. 9012/88 against the ONGC Ltd., Ankleshwar Asset before the Hon'ble Gujarat High Court and knowing about filing of case before High Court, the 1st party without assigning any reason verbally terminated him from the service on 11.11.1998 and the action of the 1st party organisation is illegal, unjust and improper and the 1st party has violated the provision of section 25F, 25G and 25H of the I.D. Act. Prayer is made to declare the action of the 1st party illegal and unjust in terminating him w.e.f. 11.11.1998 and for his reinstatement with back wages and all benefits alike regular employees with cost and any other relief to which he is found entitled.

3. As against this the contention of the 1st party (ONGC Ltd) interlia as per written statement (Ext.12) is that the reference is not maintainable and is barred by delay and latches. They have denied para 1 to 7 of the statement of claim. The 2nd party was not working with the 1st party and the 2nd party has to prove that he joined the ONGC on 07.01.1987 under the National Apprentice Scheme as an AC (Mechanical) Trade and there after he was appointed in Electrical Workshop as a workman and worked up to 1990 continuously and thereafter he was appointed as a clerk in Accounts Department and there he worked continuously up to 10.11.1998 and he completed 240 days in each year and that he used to work under the supervision, instruction and control of officers of the 1st party. It has also been denied that attendance of 2nd party was taken in the muster roll and was paid remuneration through vouchers. It has been denied that the 2nd party used to perform the work similar to permanent workman of the ONGC (Ankleshwar Asset) but was not paid salary and allowances alike of permanent employee. It has been denied that due to filing of S.C.A. No. 9012/98 by the

2nd party he was terminated by the 1st party on 11.11.1998 with prejudice and without reason without giving or notice, notice pay and retrenchment compensation etc. The case of the 1st party is that they have not violated the provision of Section 25F, G & H of the I.D. Act. The 1st party never employed the 2nd party and it is not admitted that the 2nd party remained unemployed after termination as alleged. There is no relation of master and servant between the 1st party and the 2nd party and the 2nd party is not a workman as defined u/s. 2(S) of the I.D. Act. The Tribunal cannot direct the corporation to absorb/reinstate the 2nd party in ONGC without following the reservation policy and if the Tribunal decide the matter in favour of the 2nd party then Tribunal must see that there would no breach of the contract and state circular. On these scores, prayer is to dismiss the reference with costs.

4. In view of the rival contention in the pleadings the following issues are taken for determination.

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the 2nd party Arvind Natwarlal Barot valid cause of action in this case?
- (iii) Is the reference bad for delay and laches?
- (iv) Whether the 2nd party Arvind Kumar is a 'workman' u/s. 2(S) of the I.D. Act? Whether relation of master and servant exists between the 1st party (ONGC Ltd, Ankleshwar Asset) and the 2nd party?
- (v) Whether the 2nd party Arvind Kumar continuously and uninterruptedly worked in the organisation of the 1st party from 07.01.1998 to 10.11.1998 as apprentice AC (Mechanical) trade, then in Electrical workshop as workman and then as clerk in Accounts Department of corporation? Whether the 2nd party completed 240 days work in each calendar year prior to his verbal termination on 11.11.1998?
- (vi) Whether the 1st party corporation has contravened the provisions of Section 25F, G & H of the Industrial Disputes Act, 1947?
- (vii) Whether the action of the management of ONGC Ltd, Ankleshwar in terminating the services of Shri Arvind Kumar Natwarlal Barot w.e.f. 11.11.1998 is legal, proper and justified?
- (viii) Whether the 2nd party is entitled to the relief as claimed for reinstatement with back wages? Or what relief if any the 2nd party is entitled to?

FINDINGS

5. ISSUE NO. (iv):- The 2nd party submitted seven documents with list (Ext.13). Ext.13/1 is list of T.A. bill received by the 2nd party Arvind Kumar while working as

clerk in Accounts Department dated 27.10.1998. Ext.13/2 is temporary Entry pass of Arvind Kumar given by ONGC from 17.07.1998 to 16.10.1998. Ext.13/3 is zerox of voucher of payment made to the 2nd party dated 08.08.1997. Ext.13/4 is statement showing month wise salary paid to the 2nd party Arvind Kumar. Ext.13/5 is experience certificate given by the officers of ONGC (Ankleshwar Asset) to the 2nd party Arvind Kumar on 25.06.1993. Ext.13/6 is another experience certificate issued by the officer of ONGC dated 19.08.1998. Ext.13/7 is also certificate given by Shri M.B. Mansuri, Dy. Manager (F&A) to the 2nd party Arvind Kumar N. Barot dated 03.07.1997. From Ext.13/4 it is proved that the 2nd party received salary while working in workshop from 01.05.1991 to 31.03.1992, from 01.04.1992 to 31.10.1998 while working as clerk in Accounts Department of the 1st party and last payment as per statement from 01.10.1998 to 31.10.1998 is Rs. 1858-222=1634. This statement is computer generated having no seal and sign of officer of Accounts Dept., but the 1st party witness in his oral evidence (Ext.16) namely Mohd. Yasin (Dy. Manager Finance, ONGC, Ankleshwar) has categorically admitted that Ext.13/1 to 13/7 produced by the 2nd party are documents of ONGC Ltd, Ankleshwar. That means statement showing month wise payment of salary to Arvind Kumar is also paper of the 1st party ONGC (computer generated requires no seal and signature). He (1st party) witness also stated vide para-2 Arvind Kumar was working from before in ONGC before his joining and he proved Ext.13/6 and 13/7 experience certificate granted by him to Arvind Kumar (2nd party) and the contents of certificates are true. Besides the 2nd party Arvind Kumar in his oral evidence (affidavit) Ext.14 also supported that he was doing duty as workman of O.N.G.C. Ltd., Ankleshwar and there is relation of master and servant. Nothing could have been gained in his cross examination by the 1st party's lawyer to discredit him. Vide para -7 he states that since he filed S.C.A. against ONGC Ltd, Ankleshwar Asset before the Gujarat High Court so he was terminated. This fact has also been admitted by the 1st party witness in his oral evidence (Ext.14) vide para-3 it is true that since Arvind filed case in High Court of Gujarat against ONGC Ltd, so he was thereafter terminated.

6. So, it is held that the 2nd party Shri Arvind Kumar is a workman defined under Section 2(S) of the I.D. Act and there exist relation of master and servant between the 1st party and the 2nd party. This issue is answered in affirmative.

7. ISSUE NO. (v) :- The claim of the 2nd party workman that since after his engagement by the 1st party No.1 as an apprentice in the trade of A.C. (Mechanical) from 07.01.1987 to 06.10.1988 and on completion of training as an apprentice he was employed by the 1st party No.1 in electrical workshop and he worked continuously up to 1990 as an employee of the 1st party and thereafter transferred to account department as a clerk and served

till 10.11.1998 continuously is supported in oral evidence of the 2nd party Arvind Kumar and also corroborated by the documentary evidence Ext.13/1 to 13/7 which are admitted documents of the 1st party and further find support in evidence of the 1st party witness (Ext.16) go to prove that the 2nd party was not engaged as contractor workman rather he was directly engaged by the management of the 1st party (Ankleshwar Asset) and the 2nd party has continuously and uninterruptedly worked as workman of the 1st party right from 07.01.1987 to 10.11.1998 and the officers of O.N.G.C. Ltd, Ankleshwar Asset used to exercise supervision and control over the works performed by the 2nd party. The certificates Ext.13/5, 13/6 and 13/7 have been granted to the 2nd party on the printed letter head of ONGC Ltd, Ankleshwar project. The evidences – oral and documentary both prove that the 2nd party has completed more than 240 days work in every calendar year up to 10.11.1998 i.e. before termination w.e.f. 11.11.1998 without any reason and that go to show unfair Labour practice by the 1st party and for showing colourable exercise of power. So, this issue is also answered in affirmative.

8. ISSUE NO. (vi) & (vii):- The 1st party has failed to disprove the claim of the 2nd party workman that he never worked continuously and uninterruptedly never completed 240 days work in any calendar year as per its pleadings in W.s (Ext.12). Rather the 1st party witness has also proved the claim of the 2nd party and no justifying the action on part of the management of the 1st party in terminating him (2nd party). The 1st party witness has categorically admitted at para 3 that it is true filing of case (S.C.A. 9012/98) against the management of the 1st party was sole reason for termination of the 2nd party workman. Thus the 1st party have clearly contravened the provision of Section 25F of the I.D. Act in not giving one month notice to workman Arvind Kumar N. Barot or notice pay and retrenchment compensation to him and out rightly terminated him illegally. So the action of the 1st party is clearly mala fide and of discriminating attitude due to such whim that the fellow (small workman) has dared to file case before the Hon'ble High Court against the management. So, I find and hold that the action of the management of ONGC Ltd, Ankleshwar Asset, Ankleshwar in terminating the services of Shri Arvind Kumar Natwarlal Barot w.e.f. 11.11.1998 is illegal, improper and unjustified. Thus issue No. (vi) is answered in affirmative and issue No. (vii) is answered in negative and both issues decided against the 1st party.

9. ISSUE NO.(iii):- It has been proved that the 2nd party after his termination remained agitating the matter before the High court in S.C.A. disposed of in the year 2005. So there is no delay and latches on part of the 2nd party. This issue is answered accordingly.

10. ISSUE NO. (i) & (ii) :- In view of the findings to Issues No. (iii), (iv), (v) (vi) and (vii) in the foregoing, I

further find and hold that the reference is maintainable and the 2nd party (workman) has valid cause of action to raise dispute.

11. ISSUE NO. (viii):- Previously due to violation of the mandatory provisions of Section 25F of the I.D. Act by the employer usually the casual workman who completed 240 days work in calendar years were being granted relief for reinstatement to work with back wages to any percentage according to the merit of each case. But in the recent years there have been change in the view of the Hon'ble Apex Court that since casual workers even completing 240 days work in some years, do not hold a post as that of regular employee. So as a matter of right casual workers cannot claim reinstatement, rather reasonable compensation should be awarded to them. In the case of the senior Superintendent Telegraph (traffic) Bhopal vs. Santosh Kumar Seal & others, reported in 2010 III CLR 17= 2010 (6) SCC 773, it has been held by their Lordship of the Hon'ble supreme Court (D.B) = "grant of reasonable compensation to the workman instead of reinstatement and back wages in case of termination of service is found illegal will sub serve the ends of justice." But in the instant case the 2nd party workman Shri Arvind Kumar Natwarlal Barot was working from the year January, 1987 continuously and uninterruptedly as contingent staff completed more than 240 days work every year before his termination w.e.f. 11.11.1998 which has been held to be illegal and unjustified action on part of the 1st party employer. So, his claim for reinstatement as contingent workman in the 1st party organisation (ONGC Ltd, Ankleshwar Asset) is also found to be justified due to continuous and uninterrupted service in the corporation, though he did not appear to hold a post as that of regular employee. In the alternative option, the 2nd party workman is also entitled for reasonable compensation from the 1st party.

12. Considering the long tenure of service in continuity from 07.01.1987 to 10.11.1998 of about 12 years the workman Arvind Kumar Natwarlal Barot is directed to be reinstated as contingent workman in the corporation ONGC Ltd, Ankleshwar Asset with continuity of service with 40% back wages. If the 2nd party workman choose to exercise the alternative option of getting compensation from the 1st party, then a lump sum compensation of Rupees Five Lakh only (Rs. 5,00,000) is directed to be paid to him by the 1st party. This issue is decided accordingly.

The reference is allowed. However, no order of cost.

1st party is directed to reinstate the 2nd party workman Shri Arvind Kumar Natwarlal Barot within one month of receipt of copy of award, failing which the back wages will carry interest @ 9% P.A. And if the 2nd party workman chose to exercise alternative option of getting compensation, then the 1st party will pay the compensation of Rupees Five Lakh Only to him within one month of

receipt of copy of award, failing which the amount of compensation will carry interest @ 9% per annum.

Let two copies of award be sent to the appropriate Government for publication under Section 17 (1) of the I.D. Act.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1763.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ. एन. जी. सी., लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 172/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-30011/51/2006-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 172/2006) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of O.N.G.C. Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-30011/51/2006-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present: Shri Binay Kumar Sinha,
Presiding Officer,
Ahmedabad,
Dated: 16th April, 2014

Reference (CGITA) No. 172/06

Reference adjudication order No. L-30011/51/2006-IR(M)

The Asset Manager,
ONGC Ltd,
Ankleshwar Asset,
Ankleshwar (Gujarat)

...First Party

And

Their Workman

Sh. Hitesh Kumar B. Jadav
Through the secretary,
Kamdar Hit Rakshak Sangh,
64, Rabari Colony, Odhav,
Ahmedabad (Gujarat) 382415

...Second Party

For the First Party:- Shri Kishor V. Gadhia, Advocate
Shri Mahindra K. Patel, Advocate

For the Second Party:- Shri Ashwin J. Bhatt, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi vide its order No. L-30011/51/2006-IR(M) dated 11.09.2006 referred the dispute for adjudication to this tribunal in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of ONGC Ltd., Ankleshwar Asset, Ankleshwar in terminating the services of Sh. Hitesh Kumar B. Jadav w.e.f. 11.11.1998 is legal and just? If not, to what relief the concerned workman Sh. Hitesh kumar B. Jadav is entitled to?”

2. The case of the 2nd party (workman) as per statement of claim(Ext.6) is that he from July, 1987 was engaged as typist cum clerk by the 1st party in drilling business group as contingent staff and he was getting salary per month on acceptance of bill. Further case is that the 1st party management in order to prevent any future right used to change his surname whereas he continuously and uninterruptly worked as typist cum clerk till 10.11.1998 and has completed more than 240 days work in every year continuously. He was under supervision and control of the O.N.G.C. Ltd. (1st party). His attendance was made on muster roll and he was paid monthly wages through vouchers. There was no complaint to employer (O.N.G.C. Ltd) regarding his work and his service record was clean. He was doing work alike regular employee of the 1st party organization but was paid less wages and was not given benefits as that of regular employee. He for regularisation of his service filed special civil Application 12185/98 before the Hon'ble High Court of Gujarat against the O.N.G.C. Ltd, Ankleshwar Asset and knowing about filing of case before the Hon'ble court, the 1st party without assigning any reason verbally terminated him from the services on 11.11.1998 and the action of the 1st party organisation is illegal, unjust and improper and the 1st party has violated the provisions of Section 25F, G and H of the I.D. Act. Prayer is made to declare the action of the 1st party illegal and unjust in terminating him w.e.f. 11.11.1998 and for his reinstatement with back wages and all benefits alike regular employees with cost and any other relief to which he is found entitled.

3. As against this the contention of the 1st party (ONGC Ltd) Ankleshwar Asset as per written statement (Ext.12) is that the reference is not maintainable and is barred by delay and latches. They have denied para 1 to 7 of the statement of claim. The 2nd party was not working with the 1st party and the 2nd party has to prove that he joined the ONGC Ltd., Ankleshwar Asset in July, 1987 and was working continuously as typist-cum-clerk and that he used to work under the supervision, instruction and control of officers of the 1st party. It has also been denied that the attendance of the 2nd party was taken in the muster roll and was paid remuneration through vouchers. It has been denied that the 2nd party used to perform the work similar to permanent workmen of the ONGC Ltd. (Ankleshwar Asset) but was not paid salary and allowances alike of permanent employee. It has been denied that due to filing of S.C.A. No. 12185/1988 by the 2nd party. He was terminated by the 1st party on 11.11.1998 with prejudice and without reason and without giving notice, notice pay and retrenchment compensation etc. The case of the 1st party is that they have not violated the provision of section 25F, G, and H of the I.D. Act. The 1st party never employed the 2nd party and it is not admitted that the 2nd party remained unemployed after termination as alleged. There is no relation of master and servant between the 1st party and the 2nd party and the 2nd party is not a workman as defined under Section 2(S) of the I.D. Act. The tribunal cannot direct the corporation to absorb/reinstate the 2nd party in the ONGC without following the reservation policy and if the tribunal decide the matter in favour of the 2nd party then Tribunal must see that there would be no breach of contract and state circular. On these scores, prayer is to dismiss the reference with cost.

4. In view of the rival contention in the pleadings the following issues are taken for determination:-

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the 2nd party Hitesh Kumar B. Jadav valid cause of action in this case?
- (iii) Is the reference bad for delay and latches?
- (iv) Whether the 2nd party Hitesh kumar B. Jadav is a workman under section 2(S) of the I.D. Act? Whether relation of master and servant exist between the 1st party (ONGC Ltd) Ankleshwar Asset and the 2nd party?
- (v) Whether he 2nd party Hiteshbhai B. Jadav continuously and uninterruptedly worked in the organisation of the 1st party from July, 1987 to 10.11.1998 as typist-cum-clerk of corporation? Whether the 2nd party completed 240 days work in each calendar year prior to his verbal termination on 11.11.1998?
- (vi) Whether the 1st party (corporation) has contravened the provisions of section 25F, G & H of the Industrial Disputes Act, 1947?
- (vii) Whether the action of the management of the 1st party (ONGC Ltd., Ankleshwar Assets, Ankleshwar) in terminating the services of Shri Hiteshbhai B. Jadav w.e.f. 11.11.1998 is legal, proper and justified?
- (viii) Whether the 2nd party is entitled to the relief as claimed for reinstatement with back wages? Or what relief if any, the 2nd party is entitled to?"

FINDINGS

5. ISSUE NO. (iv):- The 2nd party submitted 8 documents with list (Ext.13). Ext.13/1 is zerox copy of police verification report of the 2nd party at the instance of the 1st party (ONGC Ltd, Ankleshwar Security Dept.). Ext.13/2 to 13/5 are zerox copies of temporary entry pass in the name of the 2nd party for different period and years. Though the 2nd party claims that he worked althrough as typist cum clerk but his designation in the declaration form has been given casual labourer and it was sent for verification to Sonemahal Police Station, Bharuch. The Home district of the 2nd party more show his police verification was done as contract employee. But the 1st party has failed to produce any relevant documents that actually the 2nd party was a contractor's employee and not directly engaged by the corporation with police verification report certificate of backward class (B.C) is also attached. The temporary entry pass was issued to the 2nd party Hitesh kumar B. Jadav by Sr. Security officer, ONGC, Ankleshwar and none of the entry pass indicate that he is contractor worker. Rather go to show employee of ONGC, Ankleshwar Asset. Ext.13/6 is payment made to 7 labourers by contingent bill including the 2nd party by the officer of ONGC for the month of August, 1996 having no any contractor's name. Ext.13/7 is contingent bills dated 01.10.1996 for payment for the month of September to 7 labour including the 2nd part by Sr. P&A officer ONC. The zerox copy of muster roll of ONGC, D.B.G., Ankleshwar for the month of September, 1996 for all 30 days working of the 2nd party and likewise zerox copy of muster roll for the month of November, 1996 for 30 days presence. This relate to contingent bill for the month of December, 1996 (Ext.13/8). The 1st party witness Shri Naresh Kumar Guliani (Chief Engineer, ONGC, Ankleshwar Asset) during cross examination Ext.16 vide para 5 admitted that concerned workman Shri Hitesh Jadav was working in ONGC Ltd, Ankleshwar, D.R.B. (Drilling Business Group). He did not deny that he worked from 1987 to Nov., 1998, only stated he has no knowledge. He also admits that Ext.13/1 to 13/8 are papers given by the ONGC, Ankleshwar Asset. Vide para 7 he stated that though ONGC, has not given appointment letter to 2nd part but he was terminated from service in 1998. Vide para 8 he admits that the

2nd party had filed S.C.A. before Gujarat High Court. He admits that at the time of termination the workman (2nd party) was not given notice or notice pay and retrenchment compensation. He stated he cannot say how many contingent staff were made regular employee in ONGCL, Ankleshwar. It was suggested to him that he has deliberately concealed the true facts. Besides the 2nd party Shri Hiteshkumar B. Yadav in his evidence (affidavit) Ext.14 also supported that he was doing duty as workman of ONGC Ltd, Ankleshwar and there is relation of master and servant. Nothing could have been gained in his cross examination by the 1st party's lawyer to discredit him. Vide para 2 he stated that since he filed S.C.A. against O.N.G.C. Ltd, Ankleshwar Asset before the Gujarat High Court, so he was terminated. This fact has also been admitted by the 1st party witness in his oral evidence (Ext.16) vide para-7.

6. So, it is held that the 2nd party Shri Hiteshkumar B. Jadav is a workman defined under section 2(S) of the I.D. Act and there exist relation of master and servant between the 1st party and the 2nd party. This issue is answered in affirmative.

7. ISSUE NO. (v) :- The claim of the 2nd party workman that since after his engagement by the 1st party in D.B.G (Drilling Business Group) he actually worked as typist cum clerk from July 1987 to 10.11.1998 and served continuously is supported in oral evidence of the 2nd party Hiteshkumar B. Jadav and also corroborated by the documentary evidence Ext.13/1 to 13/8 which are admitted documents of the 1st party and further find support in the evidence of the 1st party witness (Ext.16) go to disprove the contention of the 1st party that 2nd party was engaged as contract labourer (workman) whereas go to prove that the 2nd party was directly engaged by the management of the 1st party after due Police Verification and the 2nd party has continuously and uninterruptedly worked as workman of the ONGC Ltd, Ankleshwar Asset (1st party) right from July 1987 to 10.11.1998 and the officers of the ONGC Ltd., Ankleshwar Asset used to exercise supervision and control over the work performed by the 2nd party. The evidence oral and documentary both prove that the 2nd party who is 'workman' of the 1st party has completed more than 240 days work in every calendar year up to 10.11.1998 i.e. before his verbal termination w.e.f. 11.11.1998 without any reason and that go to show unfair labour practice by the 1st party and for showing colourable exercise of power. So, this issue is also answered in affirmative.

8. ISSUE NO. (vi) & (vii):- The 1st party has failed to disprove the claim of the 2nd party workman that he never worked continuously and uninterruptedly and never completed 240 days work in any calendar year as per its pleadings in W.s (Ext.12). Rather the 1st party witness has also proved the claim of the 2nd party and not justifying the action on part of the management of the 1st party in

terminating him (2nd party). The 1st party witness has admitted vide para-7 that it is true that 2nd party was terminated in the year 1998. Thus the 1st party was terminated in the year 1998. Thus, the 1st party has clearly contravened the provisions of section 25F of the I.D. Act in not giving one month notice to workman Hiteshkumar B. Jadav or notice pay and retrenchment compensation to him and out rightly terminated him illegally. So the action of the 1st party is clearly malafide and of discriminating attitude due to such whim that the fellow (small workman) has dared to file case before the Hon'ble High Court against the management. So, I find and hold that the action of the management of ONGC Ltd, Ankleshwar Asset, Ankleshwar in terminating the services of Shri Hiteshkumar B. Jadav w.e.f. 11.11.1998 is illegal, improper and unjustified. Thus issue no. (vi) is answered in affirmative and issue No. (vii) is answered in negative and both issues decided against the 1st party.

9. ISSUE NO.(iii):- It has been proved that the 2nd party after his termination remained agitating the matter before the High Court in S.C.A. disposed of in the year 2005. So there is no delay and laches on part of the 2nd party. This issue is answered accordingly.

10. ISSUE NO. (i) & (ii) :- In view of the findings to Issue No. (iii), (iv), (v) (vi) and (vii) in the foregoing, I further find and hold that the reference is maintainable and the 2nd party (workman) has valid cause of action to raise dispute.

11. ISSUE NO. (viii):- Previously due to violation of the mandatory provisions of section 25F of the I.D. Act by the employer usually the casual workman who completed 240 days work in calendar years were being granted relief for reinstatement to work with back wages to any percentage according to the merit of each case. But in the recent years there have been change in the view of the Hon'ble Apex Court that sine casual workers even completing 240 days work in some years, do not hold a post as that of regular employee. So as a matter of right casual workers cannot claim reinstatement, rather reasonable compensation should be awarded to them. In the case of the Senior Superintendent Telegraph (traffic) Bhopal vs. Santoshkumar Seal & others, reported in 2010 III CLR 17= 2010 (6) SCC 773, it has been held by their Lordship of the Hon'ble Supreme Court (D.B) = "grant of reasonable compensation to the workman instead of reinstatement and back wages in case of termination of service is found illegal will sub serve the ends of justice." But in the instant case the 2nd party workman Shri Hiteshkumar B. Jadav was working from the year July 1987 continuously and uninterruptedly as cogent workman and thus has completed more than 240 days work every year before his termination w.e.f. 11.11.1998 which has been held to be illegal an unjustified action on part of the 1st party employer. So, his claim for reinstatement as

contingent workman in the 1st party organisation (ONGC Ltd, Ankleshwar Asset) is also found to be justified due to continuous and uninterrupted service in the corporation, though he did not appear to hold a post as that of regular employee. In the alternative option, the 2nd party workman is also entitled for reasonable compensation from the 1st party.

12. Considering the long tenure of service in continuity from July 1987 to 10.11.1998 of about 12 years the workman Hitteshkumar B. Jadav is directed to be reinstated as contingent workman in the corporation ONGC Ltd. Ankleshwar Asset with continuity of service with 40% back wages. If the 2nd party workman choose to exercise the alternative option of getting compensation from the 1st party, then a lump sum compensation of Rs. Five Lakh Only (Rs. 5,00,000/-) is directed to be paid to him by the 1st party. This issue is decided accordingly.

The reference is allowed. However, no order of cost.

1st party is directed to reinstate the 2nd party workman Shri Hiteshkumar B. Jadav within one month of receipt of copy of award, failing which the back wages will carry interest @ 9% P.A. And if the 2nd party workman chose to exercise alternative option of getting compensation, then the 1st party will pay the compensation of Rupees Five Lakh Only to him within one month of receipt of copy of award, failing which the amount of compensation will carry interest @ 9% per annum.

Let two copies of award be sent to the appropriate Government for publication under section 17 (1) of the I.D. Act.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1375/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-30012/48/2001-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1375/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Bharat Petroleum Corporation Limited and their workman, which was received by the Central Government on 06/06/2014.

[No. L-30012/48/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT:

BINAY KUMAR SINHA,

Presiding Officer, CGIT cum Labour Court,

Ahmedabad, Dated 7th April, 2014

Reference (CGITA) No. 1375/2004

Reference (I.T.C) No.31 of 2001 (old)

Reference Adjudication order No. L-30012/48/2001-IR(M), dated 07.11.2001

Bharat Petroleum Corp. Ltd.
Ichhapore, Hazira Road, Surat
Surat(Gujarat)-394510

...(1st party)

And

Their workman
Sh. Jitendra Natvarlal Patel,
Sahara Darwaja, Umarwada Tekra,
Opp. Bharat Petroleum,
Surat (GUJARAT)-395003

...(2nd party)

For the First Party: Shri Yogesh Pathak, Advocate

For the Second Party: Shri Jayesh M. Patel, Advocate

AWARD

The Government of India/Ministry of Labour New Delhi, vide its order No. L- 30012/48/2001-IR(M) dated 07.11.2001, referred the dispute for adjudication to the Industrial Tribunal, Surat(Gujarat) with respect to the matter specified in the Schedule:-

SCHEDULE

“Whether Sh. Jitendra Natwarlal Patel has put in “Continuous Service” in the Bharat Petroleum Corpn. Ltd as per provisions of Section-25B of the I D Act? If so, whether the action of the management of Bharat Petroleum Corpn. Ltd, Hazira, Surat through its officers in discontinuing/terminating the services of Sh. Jitendra Natwarlal Patel w.e.f. 11.10.2000 is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter”?

2. The Case of the 2nd party workman Shri Jitendra Natvarlal Patel as per statement of claim (Ext-5) is that he joined the Service of the 1st party on 20-01-2000 at Sahara Darwaja, Surat City depot as Casual worker at daily wage rate. He was working continuously and uninterruptedly for about two years. Only one weekly off was granted and for the rest of days he was working and has worked for more than 240 days in calendar year, but he was not made permanent. He and other casual workers complained against unfair labour practice by the 1st party before A.C.L. (Central) & Dy C.L.(Central) Baroda. Due to the reason he was terminated from the service by the management of 1st party. Notice was not given regarding Shifting of Sahara Darwaja depot to Hazira Industrial Area. He has not abandoned the Service rather the 1st party terminated him. Praying for reinstatement with back wages and cost.

3. As against this the Case of the 1st party inter alia as per written statement (Ext-13) and amended W.S.(Ext-19) is that the concerned workman was engaged on casual basis as per requirement and exigency of work of loading and unloading wagons at the working place and that he was working when other regular employees were absent and that he has not worked continuously and uninterruptedly. Sahara Darwaja depot was shifted to Hazira Industrial area on advance notice and he was directed to report for duty at Hazira depot from 1.07.2000, but he himself did not report for duty and abandoned the works of own volition. The 1st party has not violated the provisions of Section 25F of I.D. Act and there was no breach of Section 25G,H of I.D. Act and no retrenchment and termination under Section 2(rr) of I.D. Act arises. On these grounds prayer is to dismiss the reference since the concerned workman is not entitled to any relief.

4. In view of the pleadings of the parties the following issues are taken for discussions and determination:-

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the 2nd party (workman) got any valid cause of action?
- (iii) Whether the concerned workman Shri Jitendra Natvarlal Patel completed 240 days works in calendar year from his engagement and whether he completed 240 days in the calendar year preceding his discontinuation/termination?
- (iv) Whether the action of the management of Bharat Petroleum Corpn.Ltd., Hazira, Surat through its officers in discontinuing/terminating the services of workman Sh. Jitendra Natvarlal Patel w.e.f. 11.10.2000 is legal, proper and justified?

- (v) Whether the concerned workman Shri Jitendra Natvarlal Patel is entitled to reinstatement with back wages? If not, whether he is entitled alternatively for compensation? what directions are necessary in the matter?

FINDINGS

5. ISSUE NO. (iii):- On behalf of the 2nd party (workman) some document with list Ext. 9 was submitted on 07.04.2003. Ext.9/1 is copy of petition of S.C.A. No. 5107 of 2000 filed by nine petitioners including concerned workman Jitendra Natvarlal Patel. Ext.9/2 is copy of order dated 07.03.2001 of the Hon'ble Gujarat High Court by which the S.C.A. was disposed of as withdrawn since the appropriate Government referred the disputes for adjudication to the Industrial Tribunal. Ext.9/3 is copy of complainant/applicants nine in number including Jitendra Natvarlal Patel to A C L (Central) Baroda in connection with unfair Labour practice adopted by the management of the 1st party(B.P.C.L.) in which 2nd party Jitendra Natvarlal is also one of Signatory. Ext.9/4 is ES.I card showing date of engagement on 20.01.2000. Ext.10 is an application dated 19.08.03 of the 2nd party demanding production of (1) Muster Roll from January 1986 to December 2000.

6. The 1st party after long interval produced some Muster Roll books, wage certificate etc. with a list marked Ext.28 to 28/4 as consolidated document for all the group matter reference Case-1370,1372,1373,1374,1375,1376,1377 and 1396/04 and order was passed below Ext.27 that the evidence will cover all the eight reference cases. Another application was filed on 01.12.2011 on behalf of the 1st party praying therein to direct the 2nd party to complete their stage of leading evidence first. But the 2nd party workman Jitendra Natvarlal is not attending the case. There after the 1st party's witness Shri Vinod R. Panchal was examined and cross examined vide Ext.26. He produced original attendance register, wage register. According to him Second party workman Jitendra Natvarlal Patel was a casual worker and was working intermittently in Sahara Darwaja depot and he never completed 240 days works. He was cross examined by Shri Jayesh M. Patel, Advocate, but nothing could have been gained in favour of concerned workman Jitendra Natvarlal Patel. More so Jitendra Natvarlal Patel left to contest this case and failed to adduce oral evidence to support Statement of Claim. On behalf of the 1st party with list Ext.12 the attendance Summary of Concerned workman Jitendra Natvarlal Patel has been produced for the period 1999-2000 to 2000-2001 that go to prove that Jitendra worked for 90 days in 2000 from September to December and from April to September 2001 he worked for 75.5 days and total days of work is only 165.5. Thus 2nd party workman never completed 240 days' work in calendar year. The evidence of the 1st party are in abundance to discard the pleadings of the second party that he continuously and

uninterruptedly worked at Sahara Darwaja depot and completed 240 days works in calendar year. On the other hand there is complete lack of cogent evidence on behalf of the second party in support of claim.

7. Upon consideration of the evidence and materials on the record, I find and hold that the concerned workman Jitendra Natvarlal Patel had not worked continuously and uninterruptedly and had not completed 240 days works in any calendar year preceding his termination/discontinuation on 11.10.2000. So this issue is answered in negative.

8. ISSUE NO.(iv) As per findings to issue No.(iii) in the foregoing, I further find and hold that Jitendra Natvarlal Patel had not put in continuous service as casual worker in Bharat Petroleum Corpn. Ltd as per provision of section 25-B of I.D. Act and so the management of the 1st party (B.P.C.L.) had no legal liability to observe the provisions of Section 25F of the I.D. Act for issuing notice or giving notice pay and giving retrenchment compensation to him. So, the action of the management of Bharat Petroleum Corpn. Ltd. Hazira, Surat through its officers in discontinuing/terminating the services of Jitendra Natvarlal Patel w.e.f. 11.10.2000 is legal, proper and justified. This issue is answered in affirmative in favour of the 1st party.

9. ISSUE NO.(i) & (ii):-As per findings to issue No.(iii) & (iv) in the foregoing, I further find and hold that the reference is not maintainable and the 2nd party has no valid course of action in this case.

10. ISSUE NO.(v):-The 2nd party workman Shri Jitendra Natvarlal Patel is not entitled to any relief in this case.

Accordingly the reference is dismissed No order of cost.

This is my Award.

Let two copies of award be sent to the appropriate Government for publication.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1765.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन, लिमिटेड के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1373/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-30012/47/2001-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1373/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-30012/47/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

PRESENT: SHRI BINAY KUMAR SINHA,

Presiding Officer,

Ahmedabad,

Dated: 7th April, 2014

Reference (CGITA) No-1373/04

Reference (ITC) No-29/2001(old)

Reference adjudication order No. L-30012/47/2001-IR(M), New Delhi, dated 10.10.2001

Bharat Petroleum Corp. Ltd.

Ichhapore, Hazira road,

Surat(Gujarat) 394510

...First Party

And

Their Workman

Sh.Rasul Sindha,

Sahara Darwaja, Umarwada Tekra,

Surat (Gujarat) 395003

...Second Party

For the First Party:- Shri Yogesh Pathak, Advocate

For the Second Party:- Shri Jayesh M. Patel, Advocate

AWARD

The Government of India/Ministry of Labour vide its Order No. L-30012/47/2001-IR (M) New Delhi, dated 10.10.2001, referred the dispute for adjudication to the Industrial Tribunal, Surat(Gujarat) with respect to the matters specified in the schedule.

SCHEDULE

“Whether Sh. Rasul Sindha has put in continuous service in the Bharat Petroleum Corp. Ltd as per provisions of section 25-B of the I.D.Act. If so, whether the action of the management of Bharat

Petroleum Corp. Ltd, Hazira, Surat through its officers in discontinuing/terminating the services of the workman Sh. Rasul Sindha W.e.f. 16.11.2000 is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?"

2. The case of the 2nd party workman Shri Rasul Sindha as per statement of claim (Ext. 5) is that he joined the service of the 1st party on 01.04.1991 in the industrial establishment of the 1st party as a casual labourer at daily wage rate. He was working at Ring Road, Sahara Darwaja, Surat Depot continuously and uninterruptedly for about 9 years. Only one weekly off was granted and for the rest of days he was working and had worked for more than 240 days in calendar years but he was not made permanent, he and other casual worker complained against unfair labour practice by the 1st party. Due to the reason he was terminated from the service by the management of 1st party. Notice was not given for shifting of Sahara Darwaja Depot to Hazira Industrial Area. He has not abandoned the service rather the 1st party terminated him praying for reinstatement with back wages and cost.

3. As against this the case of the 1st party inter alia as per written statement and amended written statement (Ext.13 and Ext.20) is that the concerned workman was engaged on casual basis as per requirement and exigency of work of loading and unloading wagons at the working place and that he was working when other regular employee were absent and that he has not worked for 240 days in any year and has not worked continuously and uninterruptedly. Sahara Darwaja Depot was shifted to Hazira industrial area on advance notice and he was directed to report for duty at Hazira Depot from 01.07.2000, but he himself did not report for duty and abandoned the works of own violation. The 1st party has not violated the provisions of Section 25F of I.D.Act and there was no breach of Section 25G, H. of I.D. Act and no retrenchment and termination u/s. 2(rr) of I.D. Act arises. On these grounds prayer is to dismiss the reference since the concerned workman is not entitled to any relief.

4. In view of the pleadings of the parties the following issues are taken for discussions and determination.

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the 2nd party (workman) got any valid course of action?
- (iii) Whether the concerned workman Shri Rasul Sindha completed 240 days works in each calendar year from his engagement and whether he completed 240 days in the calendar year preceding his discontinuation/termination?

- (iv) Whether the action of the management of Bharat Petroleum Corp. Ltd. Hazira, Surat through officers in discontinuing/terminating the services of workman Sh. Rasul Sindha w.e.f. 16.11.2000 is legal, proper and justified?
- (v) Whether the concerned workman Shri Rasul Sindha is entitled to reinstatement with back wages? If not whether he is entitled alternatively for compensation? What directions are necessary in the matter ?

FINDINGS

5. **ISSUE NO (iii):-** on behalf of the 2nd party workman some documents with list ext. 9 was submitted on 07.04.2003. Ext 9/1 is copy of petition of S.C.A. No. 5107 of 2000 filed by nine petitioner including concerned workman Rasul Sindha. Ext.9/2 is copy of order dated 07.03.2001 of the Hon'ble High Court of Gujarat by which the S.C.A was disposed of as withdrawn since the appropriate Government referred the disputes for adjudication to the Industrial Tribunal. Ext-9/3 is copy of complainant/applicants nine is member including Rasul Sindha to A. CL(Central) and Dy CL(Central) Baroda in connection with unfair labour practice adopted by the management of the 1st party(B.P.C.L) in which 2nd party Rasul Sindha is also one of signatory Ext-9/4 is E S I card of Rasul Sindha showing date of engagement on 01.04.1991. Ext-10 is an application dated 19.08.2003 of the 2nd party demanding production of-(1)Muster Roll 1986 to 2000 (2) Vouchers from 01.04.1991 to 31.12.2000.

6. The 1st party though after long interval produced some muster roll, books, wage certificate, etc. with a list marked Ext. 28 to 28/4. The 1st party files an application on 01.12.2011(Ext.27) that the 1st party be permitted to lead documentary and oral evidence in all the eight groups matter reference case 1370,1372,1373,1374,1375,1376,1377 and 1396/2004 and order was passed below Ext.27 that the evidence will cover all the eight reference case. Another application on 01.12.2011 was filed on behalf of the 1st party praying there in to direct the 2nd party to complete their stage of leading evidence first. But the 2nd party's lawyer informed that the 2nd party workman Rasul Sindha is not attending the case. Thereafter the 1st party's witness Shri Vinod R. Panchal was examined and cross-examined vide Ext. 26. He produced original attendance register, wage register. According to him second party workman Rasul Sindha was a casual worker and was working intermittently in Sahara Darwaja Depot and he never completed 240 days works. He was cross-examined by Shri Jayesh Patel, Advocate but nothing could have been gained in favour of concerned workman Rasul Sindha. More so, Rasul Sindha left to contest this case and failed to support statement of claim. On behalf of the 1st party with list Ext.16 the attendance summary of concerned workman Rasul Sindha has been produce for the period April 1992

to March 2001 that go to show that Rasul Sindha never completed 240 days' work in any calendar year. The evidences of 1st party are in abundance to award the pleading of the 2nd party that he continuously and uninterruptedly worked at Sahara Darwaja Depot and employed 240 days' work in calendar year on the other hand there is complete each of cogent evidence on behalf of the 2nd party in support of claim.

7. Upon consideration of the evidence and materials on the record, I find and hold that the concerned workman Rasul Sindha had not worked continuously and uninterruptedly and had not completed 240 days works in the calendar year preceding has alleged termination on 16-11-2000. So, this issue is answered in negative.

8. **ISSUE NO. (iv) :** - As per findings to issue no. iii in the foregoing, I further find and hold that Rasul Sindha had not put in continuous on service as casual worker in Bharat Petroleum Corp. Ltd., as per Provision of Section 25-B of I.D. Act and so the management of the 1st party (B.P.C.L.) had no legal liability to observe the provisions of Section 25F of the I.D. Act for issuing notice or giving notice pay and giving any retrenchment compensation, to him. So, the action of the management of Bharat Petroleum Corp. Ltd., Hazira, Surat through its officers in discontinuing/terminating the service of Rasul Sindha w.e.f. 16.11.2000 is legal, proper and justified. This issue is answered in affirmative in favour of the 1st party.

9. **ISSUE NO. (i) & (ii):-** As per Findings to issue No.(iii) & (iv) in the foregoing, I find and hold further that the reference is not maintainable and the 2nd party has no valid cause of action in this case.

10. **ISSUE NO. (v):-** The 2nd Party workman Shri Rasul Sindha is not entitled to any relief in this case.

This is my award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1766.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1370/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6/6/2014 को प्राप्त हुआ था।

[सं. एल-30012/45/2001-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1370/2004) of the Central Government Industrial Tribunal/Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corporation Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-30012/45/2001-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present:

BINAY KUMAR SINHA, Presiding Officer
CGIT-cum-Labour Court

Ahmedabad, Dated 7th April, 2014

Reference (CGITA) No. 1370/2004

Reference (I.T.C) No.26 of 2001 (old)

Reference Adjudication order No. L-30012/45/2001-IR(M),
dated 10.10.2001

Bharat Petroleum Corp. Ltd.

Ichhapore, Hazira Road,

Surat (Gujarat)-394510

... (1st party)

AND

Their workman

Sh. Rakesh Kantilal Patel

(since dead) (mother Taraben

Kantibhai Patel, substituted)

Sahara Darwaja, Umarwada Tekra,

Opp. Bharat Petroleum,

Surat (GUJARAT)-395003

...(2nd party)

For the First Party: Shri Yogesh Pathak, Advocate

For the Second Party: Shri Jayesh M. Patel, Advocate

AWARD

The Government of India/Ministry of Labour, New Delhi, vide its order No. L-30012/45/2001-IR(M) dated 10.10.2001, referred the dispute for adjudication to the Industrial Tribunal, Surat (Gujarat) with respect to the matter specified in the Schedule:-

SCHEDULE

“Whether Sh. Rakesh Kantilal Patel has put in “Continuous Service” in the Bharat Petroleum Corpn. Ltd as per provisions of Section-25B of the I D Act? If so, whether the action of the management

of Bharat Petroleum Corpn. Ltd, Hazira, Surat through its officers in discontinuing/terminating the services of the Workman Sh. Rakesh Kantilal Patel w.e.f. 08.11.2000 is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter”?

2. The Case of the 2nd party workman Shri Rakesh Kantilal Patel as per statement of claim (Ext.5) filed by him during life time (but now dead) is that he joined the Service of the 1st party on 01.09.1998 in the Industrial Establishment of the 1st party as a casual labour at daily wage rate. He was working at Ring Road, Sahara Darwaja, Surat Depot continuously and uninterruptedly for about 2-3 years. Only one weekly off was granted and for the rest of days he was working. He had worked for more than 240 days in calendar years, but he was not made permanent. He and other casual workers complained against unfair labour practice by the 1st party. Due to the reason he was terminated from the service by the management of 1st party. Notice was not given for Shifting of Sahara Darwaja depot to Hazira Industrial Area. He has not abandoned the Service rather the 1st party terminated him.

3. As against this the Case of the 1st party inter alia as per written statement (Ext-9) and amended W.S.(Ext-15) is that the concerned workman was engaged on casual basis as per requirement and exigency of work of loading and unloading wagons at the working place and that he was working when other regular employees were absent and that he has not worked for 240 days in any year and has not worked continuously and uninterruptedly. The Sahara Darwaja Depot was shifted to Hazira Industrial area on advance notice and he was directed to report for duty at Hazira Depot from 1.07.2000, but he himself did not report for duty and abandoned the works of own violation. The 1st party has not violated the provisions of Section 25F of I.D. Act and there was no breach of Section 25G, H of I.D. Act and no retrenchment and illegal termination u/s. 2(rr) of I.D. Act arises. On these grounds prayer is to dismiss the reference since the concerned workman is not entitled to any relief.

4. The Original 2nd Party workman Rakesh Kantilal Patel during pendency of case died on 29.11.2002 as per death certificate granted by Surat Municipal Corporation which was filed in the Court on 04.08.2010 after more than 7 years of death. Rakesh Kantilal Patel during his life time had filed S/c on 29.01.2002. An application for condoning delay was filed by Taraben Kantilal Patel, the mother of deceased Rakesh Kantilal Patel vide Ext-20 on 15.09.2010. She was Substituted to make contest in the case for her deceased son Rakesh.

5. In view of the pleadings of the parties the following issues are taken for discussions and determination:-

ISSUES

- (i) Is the reference maintainable?
- (ii) Has the Substituted 2nd party (the mother of deceased workman) got valid cause of action?
- (iii) Whether deceased workman Rakesh Kantilal Patel completed 240 days works in each calendar year from his engagement and whether he (deceased) completed 240 days in each calendar year preceding his discontinuation/termination?
- (iv) Whether the action of the management of Bharat Petroleum Corpn.Ltd., Hazira, Surat through its officers in discontinuing/terminating the services of deceased workman Rakesh Kantilal Patel w.e.f. 08.11.2000 is legal, proper and justified?
- (v) Whether the present second party (mother of deceased Rakesh) is entitled to any relief in this case? what directions are necessary in the matter?

FINDINGS

6. **ISSUE NO. (iii):-** The present second party (mother of deceased Rakesh Kantilal Patel has not adduced any documentary evidence to show that her son was continuously and uninterruptedly working in the Industrial Establishment at Sahara Darwaja depot right from his engagement on 01.09.1998 till his alleged termination on 08.11.2000. The Identity Card or ESI Card of deceased workman has not been produced. Only there is oral evidence of Taraben Kantilal Patel, the mother of deceased workman at Ext. 23. During examination she could not support that her deceased son Rakesh had completed 240 days works in the establishment (Sahara Darwaja Depot) of the 1st party. It has come that her husband Kantilal was regular driver in the establishment of the 1st party who died and after that his son Rakesh was engaged as Casual worker. But there is no cogent evidence to support that he was working continuously and uninterruptedly. On behalf of the 2nd party through a list Ext. 24 letter of B.P.C.L dated 01.12.2003 has been filed which is addressed to Smt. Taraben Kantilal Patel regarding grant of lump sum payment of Rs. 5,00,000 (Rupees five lakh only) to her by the company instead of compassionate appointment to her or any children of deceased Kantibhai who died in accident. This Ext. 24/1 does not support that deceased Rakesh continuously worked as casual labour to complete 240 days works in calendar year.

7. On the other hand the evidence of the 1st party witness Mr. Naresh Juneja has clearly stated that casual workers were being employed at Surat depot purely on need based and intermittently and the unskilled workers were mainly engaged at the time of unloading the railway

wagons of MS(petrol) HSD(Diesel) & Kerosene. This witness was not cross-examined on behalf of the 2nd party and so his evidence remained unchallenged.

8. Upon Consideration of the evidence and materials on the record, I find and hold that the deceased workman Rakesh Kantilal Patel had not worked for 240 days in any calendar year during his engagement as casual labour and he did not complete 240 days in the calendar year preceding his termination. So, this issue is answered in negative.

9. **ISSUE NO. (iv) :-** As per findings to issue No.(iii) in the foregoing, it is held that deceased Rakesh Kantilal Patel had not put in continuous service as casual helper in Bharat Petroleum Corpn. Ltd as per provision of section 25-B of I.D. Act and so the management of the 1st party(B.P.C.L.) had no legal liability to observe the provisions of Section 25F of the I.D. Act for issuing notice or giving notice pay and giving any retrenchment compensation to the deceased workman Rakesh. So, the action of the management of Bharat Petroleum Corpn. Ltd. Hazira, Surat through its officers in discontinuing/terminating the services of deceased workman Rakesh Kantilal Patel w.e.f. 08.11.2000 is legal, proper and justified. This issue is answered in affirmative in favour of the 1st party.

10. **ISSUE NO. (i) & (ii):-** As per findings above to issue No. (iii) & (iv) I find and hold further that the reference is not maintainable and the 2nd party has no valid course of action in this case.

11. **ISSUE NO. (v):-** The present 2nd party (Smt. Taraben Kantilal Patel) the mother of deceased workman Rakesh Kantilal Patel is not entitled to any relief in this case.

Accordingly, the reference is dismissed No order of cost.

This is my Award.

BINAY KUMAR SINHA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1767.—औद्योगिक विवाद अधिनियम, 1947(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन आयल कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 11/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6/6/2014 को प्राप्त हुआ था।

[सं. एल-30011/8/2011-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2012) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 6/6/2014.

[No. L-30011/8/2011-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present: Shri L.C.DEY, M.A., LL.B., Presiding Officer
CGIT-cum-Labour Court, Guwahati.

Ref. Case No.11 of 2012.

In the matter of an Industrial Dispute between
The Management of M/S IOC Ltd., Bongaigaon Refinery.

Vrs

Their Workmen represented by the General Secretary,
Bongaigaon Refinery Employees Union.

APPEARANCES

For the Workman : Mr. J.K.Kar, Advocate
Mr. R. Barpujari, Advocate
Mr. D.K.Mahanto,, Advocate

For the Management.: Mr. K. N. Choudhury, Sr. Advocate.
Mr. H.Sarma, Advocate, Mr. R. Deka,
Advocate.

Date of Award: 16.05.2014.

AWARD

1. This Reference has been initiated on an Industrial Dispute between the Management of M/S IOC, Ltd., Bongaigaon Refinery and their workmen represented by the General Secretary, Bongaigaon Refinery Employees Union on account of discontinuance of the payment of frozen amount/personal pay of Rs.950 of the said workmen by the Management, which was referred by the Ministry of Labour, Government of India, New Delhi for adjudication vide their order No. L-30011/8/2011-IR(M) dated 16.02.2012. The Schedule of this Reference is as under.

SCHEDULE

“Whether the action of the management of M/s IOCL, Bongaigaon Refinery in discontinuance of

the payment of frozen amount/personal pay of Rs.950/- per month in terms of Tripartite settlement dated 29/7/2010 (clause 2.4) is justified? If not to what relief the Grade-VIII (earlier SSG) employees are entitled to?"

2. The case of the Bongaigaon Refinery Union (herein after called BREU), in nutshell, is that the erstwhile Bongaigaon Refinery and Petro-Chemical Ltd. (herein after called BRPL) has been merged with its holding Company M/S Indian Oil Ltd. on 25.3.2009. In order to ease out the resentment amongst the workmen due to lack of convenience for promotion to executive cadre, the management of BRPL, on the basis of the Tripartite Settlement for Promotion Policy signed on 13.2.1991 a new concept of promotion from non-executive to executive cadre was mooted. Accordingly the employees in Special Selection Grade (in short SSG) were made entitled to enjoy the reimbursement/advances, equivalent to lower executive cadre as compensation namely:

- a) Re-imburement of Medical Travel Expenses;
- b) Uniform re-imburement;
- c) Children Allowance.

In the result a Bipartite Settlement was held on 24.7.1995 known as "Channel on promotion from non executive to executive cadre" effective from 1.4.1994 was arrived at between the parties and frozen amount i.e. Rs.950 only was extended, which is basically known as local travel expenses and was paid as allowances. Subsequently, during the Tripartite Settlement for Promotion Policy dated 25.7.2004 it was renamed as personal pay not to be counted for any other allowance like D.A., C.C.A, SDA, O.T, Bonus, Incentive, etc. as its character was of a Local Travel Expenses; and same Promotion Policy when modified again by the Tripartite Settlement signed on 6.12.2004 (Vide clause-2.1) extended it further for retrial benefits. The Union mentioned that even after merger Tripartite Settlement signed on 16.9.2010 regarding Promotion Policy also did not touch the same, rather it has retained the earlier benefits of stagnation in Grade-VIII under Clause-3. It is mentioned that the Promotion Policy enumerated above are enough to enunciate that this frozen amount is not a pay related payment at all. Thus the discontinuance of the frozen amount of Rs.950/- by the Management is illegal, arbitrary and misconceived on the plea of Clause 2.4 of Post Merger LTS Settlement on 29.07.2010; and hence, the Management has acted arbitrarily without trying to make correct interpretation of the Clause 2.4 of Post Merger Long Term Settlement (LTS) dated 29.07.2010 in spite of the fact that this frozen amount is not a pay related payment. It is also contended by the Union that prior to merger with IOCL, the Long Term Settlement (LTS) signed on 08.03.2001 neither touched this frozen amount nor revised the same due to its character of a Local Travel

Expenses, and even after the merger the LTS signed on 29.07.2010 had not touched the frozen amount and continued payment of the said frozen amount for five months from the date of settlement and if it would have been a pay related payment it would have got revised in the LTS settled on different occasion. Therefore the continuance of frozen amount of Rs.950/- by the management is illegal, arbitrary and misconceived on the plea of Clause 2.4 of Post merger LTS on 29.07.2010. The Union also pleaded that it is a clear case of misinterpretation and misconception of the Clause 2.4 of Post merger LTS on 29.07.2010, i.e. the settlement will supersede the agreement(s) related to any other pay related benefits arrived between the recognized Union of the erstwhile BRPL and its management in respect of workmen of Bongaigaon Refinery as made by the management and taking the plea of clause 2.4 of Post merger LTS on 29.07.2010 the management has illegally stopped the payment of frozen amount of Rs.950/- per month depriving the poor employees of their lawful benefits. Hence, the Union prayed for passing necessary order allowing them appropriate relief and compensation.

3. The case of the management of IOCL, Bongaigaon Refinery, in brief, is that the BRPL became a unit of IOCL and known as IOCL, Bongaigaon Refinery and all the workmen of erstwhile BRPL became the workmen of IOCL, Bongaigaon Refinery. In terms of promotion policy for the workmen of erstwhile BRPL effective from July, 2004, the workmen working in SSG grade with six years service in SSG grade (now Grade VIII) beginning from 31.07.2004 were entitled to frozen personal pay of Rs.950 per month as stagnation benefit. On 2.4.2009 a Tripartite Settlement was signed regarding the works related allowance, perquisites, benefits, etc. revising all such benefits exactly as per IOCL and the said Settlement includes a clause to the effect that erstwhile BRPL Rules on leave/LTC/Holidays/Working Hours/Medical/ Loan and Advances/ TA Rules etc. will be replaced with IOCL Rules. Thereafter the management of IOCL at corporate level signed a long Term Settlement (LTS) on wage revision for workmen with all recognized Union of IOCL including the claimant Union on 29.07.2010. Based on the said MOS a tripartite settlement was signed between the Management of IOCL, Bongaigaon Refinery and BGREU at unit level on 27.10.2010 in presence of RLC (C), Guwahati by which the wage revision was made common for all refinery units of IOCL except to the extent that for BGR workmen, the settlement was effective from 01.07.2007 and for all others the settlement was effective from 01.01.2007. Further in terms of clause 2.4 of the LTS dated 29.07.2010 all agreement(s) related to any other pay related benefits, earlier arrived between the recognized Union of the erstwhile BRPL and its management in respect of workmen of BGR stands superseded. After signing of the LTS dated 29.07.2010 on wage revision, a Tripartite Settlement on

revised promotion policy was signed between the Management of IOCL, BGR and BGREU on 16.09.2010 before the ALC(C), Guwahati in which the provision regarding frozen personal pay of Rs.950/- per month to SSG grade workmen completing six years service was not included unlike pre-revised promotion policy settlement and, clause 3 of the new promotion policy contains the following provisions:

Clause 3: Stagnation Grade VIII.

Pending finalization of modalities for movement from Grade VIII to Grade IX, workmen in Salary Grade VIII, who do not get promotion to Officer Grade A on completion of 6 years in the grade shall be given an additional increment at the rate of last increment drawn as personal pay, provided he has minimum 'satisfactory' ACR rating in the preceding three years, which will be treated as Basic Pay for all purposes. This benefit, however, will be admissible till the workmen is promoted to Grade A Officer.

Such eligible workmen who do not get promotion to Officer Grade A upon completion of another 4 years service in Grade VIII from the date of grant of Personal Pay as Stagnation Benefit as above, shall be granted one additional increment at the rate of last increment drawn as Additional Personal Pay, which will be treated as Basic Pay for all purposes. This benefit will be admissible till the workman is promoted to Grade A Officer.

Thus after signing of the above LTS on 29.07.2010, promotion policy settlement signed on 16.09.2010 and earlier settlement on perquisites/allowance signed on 02.04.2009, all pay related benefits and perquisites/allowances of BGR workmen have fully become uniform with other refinery units of IOCL. With the implementation of the settlement, no other dissimilar benefit/component in BGR exists any longer for BGR workmen compared to other IOCL workmen in refinery units; and no benefits on old agreement/settlements will be available simultaneously with the new benefits. It is also mentioned that the frozen pay of RS.950/- as personal pay being drawn by the BGR workmen under erstwhile BRPL promotion policy and drawl of personal pay by any other workman on any other count under erstwhile BRPL system was no longer payable and hence discontinuance with effect from 1st August, 2010 i.e. after signing of LTS dated 29.07.2010 is legal and justified.

The management also pleaded that the revised pay scale including arrear payment was implemented on 28th/29th October, 2010 and due to oversight, the frozen amount of Rs.950/- drawn by SSG grade employees was continued. Subsequently after coming to the notice of the Management, BGREU was intimated vide letter dated 02.12.2010 that the frozen personal pay of Rs.950/- would be discontinued with effect from 01.08.2010. Accordingly the payment was discontinued from the salary of January,

2011 and recovery of the said frozen amount paid due to oversight for the period August, 2010 to December, 2010 was completed from the salary/arrear paid in February, 2011. Further pleading of the management is that due to pay revision settlement, apart from common pay scale and fitment benefit granted to the workmen some additional benefits have accrued to BGR workmen as a result of merger of BGR with IOCL on signing of common settlement are as follows:

- (a) In the earlier system of BRPL, annual increment otherwise used to be admissible from 1st July of the year and as per settlement after drawl of first annual increment in the revised scale in July, 2007 the next annual increment has been allowed to be drawn at full rate from 1st January, 2008 and this benefit of early drawl of increment by six months every year is a benefit that will remain in force on perpetual basis.
- (b) Under normal situation the D.A. for BGR workmen would have started with 0% on 1st July, 2007. However, due to merger with IOCL and signing of common settlement, BGR workmen have been allowed DA of 1.3% from 1st July, 2007 taking base DA neutralization point of 1st January, 2007; and this additional benefit will be perpetual and keep accruing has reached up to 2.1% additional DA benefit as on 1st July, 2012 which has become additional pay benefit of Rs. 850 (approximately) monthly. Thus the employee in Grade-VIII have been substantially benefited from the revision of pay and other work relating to allowances/benefits and there stands no merit or basis in allowing continuation of any pay related benefit to workmen of Bongaigaon Refinery which is not common with IOCL system and settlement.

The Management of IOCL, Bongaigaon Refinery denied most of the averments made in the claim statement submitted by the Union.

The Management categorically denying the statements made by the Union in their claim statement at Para-1(iii), 1(iv), 1(v), 1(vi), 2(1), 3, 4 and 5; and contended that there was no any Bipartite Settlement arrived at on 24.07.1995 between the Management of BRPL and BRPEU. In a meeting held on 19.05.1995 between the said parties it was, inter-alia, agreed by the management to create a new Special Selection Grade for promotion of employees in SG/e grade on fulfillment of prescribed eligibility criteria and it was also agreed with the employees in SSG Grade would be entitled for drawl of the reimbursement/allowance in place of the reimbursement of allowance admissible to SG at the rates as applicable to the lowest executive grade which are : (a) Reimbursement of Local Travel Expenses, (b) Uniform reimbursement, (c) Children Education Allowance.

The above allowances were agreed by the management of erstwhile BRPL as stagnation benefit taking into consideration the resentment of the workmen employed for long stagnation in SG/e Grade i.e. higher grade in the workmen category due to non-availability of sufficient vacancy in the executive cadre and the said benefit was effective from 01.06.1995. On the basis of the minutes of the meeting dated 19.05.1995 a scheme of 'Channel for promotion from non executive to executive cadre' was notified on 24.7.1995 and neither in the minutes of the meeting held on 19.5.1995 nor in the scheme notified on 24.7.1995 as mentioned above there was any provision for payment of frozen amount of Rs.950/-. The management also stated that in terms of clause 2 of the Tripartite Settlement dated 25.07.2004 stagnation benefit to SSG grade employees upon completion of 6 years for SSG grade was agreed by the management which are as follows :

- (a) Reimbursement of Local Travel Expenses for car up to 70% of the rate as admissible to Executive in grade B;
- (b) A lump sum amount of Rs.550/- p.m. as 'Compensating Allowance'.

It is also added that the Tripartite Settlement dated 25.7.2004 was subject to the approval of the Board of Directors of erstwhile BRPL and as the Board did not agree to the said clause 2 as stated above another Tripartite Settlement was signed on 06.12.2004 modifying clause 2 of the settlement of 25.07.2004 as:

The employees in SSG upon completion of 6 years in SSG grade as per the cut off date of eligibility, starting from the year 2004, and not promoted to executive grade B will be allowed following benefit till promotion to executive grade B, such as a frozen amount of Rs.950/- per month as personal pay which was not counted except retrial benefit at the time of retirement. Hence, the personal pay was introduced for the first time by the settlement of 06.12.2004 as stagnation benefit and the same is pay related benefit which is counted for retirement benefit also. The Management also stated that it implemented the provision of LTS dated 29.07.2010 and settlement on Promotion Policy dated 16.9.2010 in its true words and spirit, while the BGREU by raising this dispute on the issue settled under a legally binding settlement has tarnished the sanctity of the signed settlement. The Management added that the frozen amount of Rs.950/- per month was introduced only in the year 2004 vide settlement dated 06.12.2004 and as per the settlement of 2004 the frozen amount of Rs.950/- was paid as personal pay which was a stagnation relief for employees in SSG completing minimum six years in the grade and not getting promotion to the executive grade; and the management only implemented the provision of LTS dated 29.07.2010 and the settlement on promotion policy dated 16.9.2010 and there is no any

misinterpretation and misconception of the clause 2.4 of the post merger LTS on 29.07.2010 on the part of the management. Therefore the Management contended that the union has miserably failed to make out any case for interference by this Tribunal and in view of the above circumstances the management prayed for passing the appropriate award in their favour.

4. In order to prove their respective cases both the management and the Union examined one witnesses each. The workmen witness No.1, Sri Mahesh Ishwary, the President of Bongaigaon Refinery Employees Union, in his deposition stated that on the basis of a Tripartite Settlement for (promotion policy) signed on 13.2.91 vide Exhibit-2 a new concept on the promotion from non-executive to executive cadre was mooted out by the management in order to satisfy the resentment amongst the workmen due to lack of avenues for promotion to executive grade; and employees in Special Selection Grade were made entitled to enjoy the benefit of reimbursement of Local Travel Expenses, Uniform reimbursement and Children Education allowance. Accordingly a Bipartite Settlement was held on 24.7.95 vide Exhibit-3 (the minutes of the meeting held between the BRPL Union and the Management) titled as : "Channel of Promotion from Non-Executive to Executive cadre" effective from 01.08.1994 in which frozen amount to the tune of Rs.950/- was extended which is basically named as Local Travel Expenses and was paid as allowance and in this connection an Inter Office Memorandum being No.PER: 4.02.20 dated 24.7.1995 was issued by the management vide Exhibit-4. Subsequently as per tripartite settlement for promotion policy signed on 25.7.2004 marked as Exhibit-6 between the management of BRPL and the employees Union before the RLC(C), Guwahati and the said frozen amount was renamed as personal pay not to be counted for any other purpose like DA, CCA, SDA, OT, Bonus and Incentive etc. as its character was of a Local Travel Expenses. Thereafter the said promotion policy was modified again by a tripartite settlement signed on 06.12.2004 vide Exhibit-7 extending it further for retrial benefit vide Clause No.2.1. After merger a tripartite settlement signed on 16.09.2010 vide Exhibit-9 regarding promotion policy the personal pay (frozen amount) was not touched, rather the same has retained the earlier benefit of stagnation in Grade-VIII under Clause-3. The W.W.1 mentioned that the frozen amount is not at all pay related payment and if it would have been a pay related payment, it would have got revised in longer terms settlement arrived at on different occasions; and hence the discontinuance of frozen amount of Rs. 950/- per month by the management be declared as illegal, arbitrary and misconceived on the plea of Clause 2.4 of Post Merger Long Term Settlement on 29.07.2010. It is also stated by the W.W.1 that the management has acted arbitrary without trying to make correct interpretation of the Clause 2.4 of the Post Merger LTS on 29.07.2010, vide

Exhibit-8. He also said that prior to merger with IOCL, the LTS signed on 08.03.2001 vide Exhibit-5, which neither touched this frozen amount nor revised the same due to character of a Local Travel Expenses and continued payment of the said frozen amount; and even after merger the LTS dated 29.7.2010 (Exhibit-8) do not touched that frozen amount due to same character of Local Travel Expenses and continued payment of the said frozen amount for 5 months from the date of settlement. He again pleaded that it is a clear case of misrepresentation and misconception of Clause 2.4 of Post Merger LTS settlement on 29.7.2010 (Exhibit-8) wherein it was stated that the settlement will supersede this Agreement related to any other pay related benefit arrived between the recognized union of the erstwhile BRPL and its management in respect of the workman of BGR as made by the management and taking the plea of the clause 2.4 of said Post Merger LTS settlement on 29.7.2010, the management has illegally stopped the payment of frozen amount of Rs.950/- depriving the poor employees of their lawful benefits.

In course of his cross-examination the workman witness No.1, Sri Mahesh Ishwary stated that he had mentioned in his evidence-on-Affidavit at para-3 that in view of the tripartite settlement dated 13.2.1991 the employees were allowed reimbursement of local travel expenses, uniform reimbursement and children education allowance but it was not mentioned in the tripartite settlement dated 13.2.1991, marked as Exhibit-2 ; and that in para-4 of his evidence-on-Affidavit he stated that as per bipartite settlement dated 24.7.1995 frozen amount to the tune of Rs.950/- only was extended to in the bipartite settlement dated 24.7.1995 (Exhibit-4) but there is no mention of extension of frozen amount. He also said that there is no mention in the tripartite settlement dated 25.7.2004 (Exhibit-6) that the frozen amount has been renamed as personal pay and the mention of frozen amount of Rs.950/- is not there. He also said that as per Clause 2 of the tripartite settlement dated 25.7.2004 (Exhibit-6) has been superseded vide Clause 2.1 of the tripartite settlement dated 6.12.2004 (Exhibit-7); and that the frozen amount of Rs.950/- as personal pay has been introduced for the first time in tripartite settlement dated 06.12.2004 (Exhibit-7). But after merger of BRPL with IOCL one Long Term Settlement dated 29.7.2010 (Exhibit-8) was arrived at between the management of IOCL and their Union wherein the BGREU was also a party and he (WW.1) was the President at that time and he put his signature on the said Long Term Settlement vide Exhibit-8(1). He also agreed that in the said settlement Clause 2.4 runs as follows: "This settlement will supersede the agreement(s), related to any other pay related benefits, arrived between the recognized Union of the erstwhile BRPL and its Management in respect of workmen of BGR". The W.W.1 added that on 16.9.2010 another tripartite settlement (Exhibit-9) was arrived at and Clause-3 of the said

Agreement(s) (Exhibit-9) wherein certain benefits were given to the Grade-VIII employees in the noting of the said Clause 3, it is stated "besides the above, no other stagnation benefit shall be permissible to be admissible to the workmen in Grade-VIII" which is marked as Exhibit-9(2). He again said that the employees in Special Selection Grade (SSG) falls within the Grade-VIII. This witness again mentioned that in the settlement dated 8.3.2001 (Exhibit-5) there is no mention about the frozen amount of Rs.950/- nor regarding any other payment like Local Travel Expenses etc., and that the memorandum of settlement dated 29.7.2010; 16.9.2010 and 27.10.2010 superseded all other earlier agreements between the management of BRPL and the Union. He denied the suggestion tendered by the learned Advocate for the Management that in view of the agreement dated 29.7.2010; 16.9.2010 and 27.10.2010 the Union have no right to claim for any stagnation allowance/frozen amount. He again stated that the management of IOCL wrote a letter dated 02.12.2010 marked as Exhibit-11 to the General Secretary, BGREU stating that the frozen amount of Rs.950/- as personal pay being drawn by the workmen under the erstwhile BRPL will no longer be payable and it will be discontinued with effect from 1st August, 2010 i.e. after signing of the Long Term Settlement dated 29.7.2010, and the amount of frozen amount already paid was deducted from the salary of the workmen for the month of February, 2011. But he denied the suggestion that the management has rightly deducted the amount from the salary. The workmen witness No.1 also admitted that due to merger of BRPL with the IOCL the annual increment which was due every year have been reckoned from January for which they received extra pay benefit of lump sum amount, and because of the merger they are getting additional benefit of D.A.

The Management witness No.1 Sri Subhash Chandra Sarkar, in his evidence on Affidavit mentioned that a tripartite settlement was signed on 2.4.2009 between the management of IOCL, BRPL and the BGREU vide Exhibit-B on work related allowances, perquisites, benefits etc. revising all such benefits exactly as per IOCL, wherein in Clause 1.12 it was mentioned that Rules and entitlements on Leave, Holidays, LTC, HBA, Conveyance Advance, Medical and TA of erstwhile BRPL would be replace with corresponding IOCL Rules and entitlements; and Exhibit-B(1) and B(2) are the signatures of the W.W.1. The M.W.1 further mentioned that the IOCL, at Corporate level, signed a Long Term Settlement on wage revision of the workmen with all recognized Union of IOCL including the BGREU on 29.7.2010 (Exhibit-8) and based on the said settlement a tripartite settlement was signed between the IOCL, BGR and BGREU at unit level on 27.10.2010 (Exhibit-10) in presence of RLC (C), Guwahati on the matter regarding wage revision in common for all Refinery Units of IOCL except to the extent that BGR workmen, the settlement was effective from 01.07.2007 and for all others

the settlement was effective from 1.1.2007. He again mentioned that in terms of Clause 2.4 to the Long Terms Settlement dated 29.7.2010 (Exhibit-8) all agreement(s) related to any other pay related benefits, earlier arrived at between the recognized Union of erstwhile BRPL in its management in respect of the workmen of BGR stands superseded vide Exhibit-8(2); and that after signing of the LTS dated 29.7.2010 of wage revision, a tripartite settlement on revised promotion policy was signed between the management of IOCL, BGR and BGREU on 16.9.2010 before the ALC(C), Guwahati (Exhibit-9) wherein the provision for frozen personal pay of Rs.950 per month to SSG Grade workmen was not included unlike pre-revised promotion policy settlement. He also described the Clause-3 of the new promotion policy wherein clause-3 stagnation in Grade-VIII says that pending finalization of modalities for movement from Grade VIII to Grade IX, workmen in salary Grade VIII, who do not get promotion to Officer grade A upon completion of 6 years in the grade shall be given an additional increment at the rate of last increment drawn as Personal Pay, provided he has minimum "satisfactory" ACR rating in the preceding three years, which will be treated as Basic Pay for all purposes. This benefit, however, will be admissible till the workman is promoted to Grade A officer.

The benefit of Additional Personal Pay shall be performance linked and shall be given to such workmen who have minimum two "outstanding" CR in Grade VIII in the preceding 4 years. Exhibit-9(1) is the said clause 3. In the note of Clause-3 it is clearly mentioned that it is besides the above, no other stagnation benefit shall be permissible to be admissible to the workmen in Grade VIII (Exhibit-9(2)).

The MW.1 mentioned that after signing of the LTS vide Exhibit-8 Promotion Policy Settlement was signed on 16.9.2010 (Exhibit-9) and the early settlement on perquisite/allowance etc. signed on 02.04.2009 (Exhibit-B) all pay related benefits and perquisites/allowances of BGR workmen have fully become equal with other refinery units of IOCL with the implementation of the settlements, and no other dissimilar benefits/component in BGR exists any longer for the BGR workmen. He added that on implementation of revised pay, the actual pay and benefits would be as per revised pay and benefits only and no benefits of old agreement/settlement would be available simultaneously with the new benefits. As such, the frozen pay of Rs. 950 per month as personal pay drawn by the workman under erstwhile BRPL promotion policy and drawl of personal pay by any other workmen on any other workmen on any other count under erstwhile BRPL system was no longer payable and hence, it was discontinued with effect from 1.8.2010 i.e. after signing of the LTS marked as Exhibit-8. It is stated by the MW 1 that the payment of revised pay scale including arrear pay was implemented

on 28/29 October, 2010 and due to oversight the personal pay of Rs. 950 drawn by SSG Grade employees was continued but on coming to the notice of the management the BGREU was intimated vide letter marked as Exhibit-11 intimating that the frozen personal pay of Rs. 950 would be discontinued with effect from 1.8.2010. Accordingly the payment was discontinued from the salary for the month of January, 2011 and recovery of the said frozen amount paid due to oversight for the period August, 2010 to December, 2010 was completed from the salary/arrear pay of February, 2010. The frozen amount of Rs. 950 was introduced for the first time in 2004 vide the settlement dated 6.12.2004 which was a stagnation relief for employees in SSG completing minimum 6 years in the Grade and not getting promotion to executive cadre. He added that pursuant to the memorandum of settlement dated 29.7.2010, 16.9.2010 and 27.10.2010 the Union has no right to claim the frozen amount of Rs. 950 in terms of old settlement as mentioned above as the settlement marked as Exhibit-8, 9 and 10 have superseded all other earlier agreement entered into by the management of BRPL and BGREU.

In course of his cross-examination the management witness No.1 stated that prior to merger of BRPL and IOCL the management of BRPL have separate juristic entity; and as per Clause 2.1 of the minutes of the meeting (Exhibit-3) for promotion to Special Selection Grade from grade i.e. (Groups-7,8,9,10 & 11) and as per clause 2.9 of Exhibit-3 the employees of SSG Grade will be entitled to drawl of reimbursement of Local Travel Expenses, Uniform reimbursement and Children education reimbursement with effect from 1.6.1995. But in the MOS of LTS dated 8.3.01 there is no specific mention of withdrawal/discontinuation of the benefits allowed to the SSG employees granted vide clause 2.9 of Exhibit-3 and the said benefits to the SSG employees was given after long term settlement arrived vide Exhibit-5. He also said that as per settlement dated 6.12.2004 vide Clause 2.1 it was settled that the frozen amount of Rs. 950 per month as personal pay would be given to the employees of SSG Grade upon completion of 6 years in SSG Grade as per cut off date of eligibility, starting from 2004 and not promoted to executive grade, and this personal pay would be paid monthly which will not be counted for calculation other allowance except in calculating at the time of calculation of gratuity. He again said that the personal pay has not been defined in Exhibit-7. The MW.1 also said that in the LTS marked as Exhibit-8 in para 2.1, 2.2 and 2.3 there is specific mention of the category of the staff under SSG who were enjoying benefit of frozen amount of Rs. 950 per month and although in para 2.4 of the said settlement it has been mentioned that this settlement would supersede the agreement(s) related to any other pay related benefits in respect of the workmen of BGR, there is no specific mention of SSG category employees and the staff who are drawing the frozen amount of Rs. 950. He again mentioned that there is

no mention of SG and SSG category of staff against salary grade-8 and the matter regarding stagnation in grade-8 staff have been discussed in detail in para-3 of the Memorandum of Settlement marked as Exhibit-9 but there is no specific mention anywhere in the said agreement regarding payment of frozen amount of Rs. 950 per month. He again stated that on 27.10.2010 a Tripartite Settlement was held between the parties in presence of the RLC(C), Guwahati regarding revision of pay scale, pay related matters and other allowances for the workmen wherein in clause-2.0 the applicability/merger of the settlement has been prescribed in Clause-2.1, 2.2, 2.3 and 2.4 but there is no mention of SSG category of staff and the staff who were drawing frozen amount of Rs. 950/- while there is mention of revised pay scale of workmen including grade-VIII, SG/SSG in Annexure-A. He denied the suggestion advanced by the learned Advocate for the workmen that the letter marked as Exhibit-11 was issued illegally.

5. I have gone through the entire case record along with the evidence adduced by both the sides. I have also heard arguments from both the sides at length.

During argument Mr. J.K.Kar, assisted by Mr. R. Barpujari, learned Advocates for the workmen submitted that the Management allowed the frozen amount of Rs. 950 per month since 1991 to the SSG Grade-VIII employees of the then BRPL vide memoranda of settlement marked as Exhibit-2 and 3; and the channel of promotion for non executive to executive agreed to have been applicable to the SSG Group employees was determined vide the MOS marked as Exhibit-4 but it was not worked out. While some benefits in the form of reimbursement of Local Travel Expenses, children allowance, uniform allowance and subsequently the frozen amount/personal pay to the SSG employees Group-VIII was also allowed vide the MOS marked as Exhibit-7. Mr. Kar also added that consequent upon the merger of BRPL with IOC settlements were held on 29.7.2010 & 16.9.2010 vide Exhibit-8 & 9 and thereafter on 27.10.2010 another tripartite settlement was held between the parties before the RLC(C), Guwahati vide Exhibit-10 but in these settlements there is no mention of withdrawal of this frozen amount/personal pay granted to the SSG Grade employees at the rate of Rs. 950 per month. Mr. Kar, learned Advocate for the workmen further pointed out that the management without any prior notice discontinued the frozen amount/personal pay @ Rs. 950 per month as personal pay for SSG Grade- VIII employees vide their letter No. HR/04/08/40 dated 2.12.2010 illegally, arbitrarily and with malafide intention to deprive the employees from getting their benefit in order to compensate their stagnation. In support of his contention Mr. Kar relied upon the decision of Hon'ble Supreme Court held in the Management of Indian Oil Corporation Ltd.—vrs— Its workmen reported in (1976) 1 Supreme Court Cases 63 wherein it was decided that unilateral withdrawal of compensatory allowance in absence of notice is fatal ; compensatory allowance if same as housing subsidy.

Mr. R.Barpujari, learned Advocate for the workman raised another point that the frozen amount/personal pay is form of allowance and part of wage and as such, it is a condition of service already enjoying by the workmen since 1995 to 2010 and as it is a condition of service but the Management has illegally discontinued it without servicing any notice. He also stated that the frozen amount nor pay related benefit as mentioned in Clause-2.4 of the MOS marked as Exhibit-10. He referred the provision of Section 9A of Industrial Dispute Act wherein it has been categorically provided that no employer, who propose to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change, without giving the workmen likely to be affected by such change a notice, within 21 days of giving such notice, provided that no notice shall be required for effecting such change where the change is effected in pursuance of any settlement or award, or where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, etc. that may be notified in this behalf by the appropriate Government in the Official Gazette. Mr. Bapujari in order to strengthen his argument referred the case of Monthly Rated Workmen at the Wadala Factory of the Indian Hume Pipe Co. Ltd.—vrs—Indian Hume Pipe Co. Ltd., Bombay, reported in 1986 (supp) Supreme Court Cases 79, wherein it was held that the benefit prevailing for long making it a condition of service should not be allowed to be interfered with lightly to the prejudice of the workmen in absence of compelling materials and that the burden of proof to justify the alteration on the management.

6. Mr. H. Sarma, learned Advocate for the management objected the argument raised by the learned Advocates for the workmen and submitted that in the memoranda of settlements marked as Exhibits-2,3 and 4 there is no mention of the frozen amount/personal pay, although the W.W.1 in his evidence categorically mentioned that in the MOS marked as Exhibit-2 the management agreed to pay reimbursement of local travel expenses, clothing allowance, and children education allowance. But there is no mention of the frozen amount/personal pay in the MOS marked as Exhibit-4 and Exhibit-6; and that the learned Advocate for the workmen also pleaded that the frozen amount/personal pay was allowed in order to compensate the stagnation of promotion of the SSG Grade-VIII employee who have completed 6 years of their service but they were not promoted to Officer Grade. It is also added by Mr. Sarma, the learned Advocate that the workmen witness No.1 categorically mentioned that in the MOS marked as Exhibits-8,9,& 10 there is no mention of frozen amount nor the same has been negated after merger of BRPLO to IOCL and hence, the evidence of

W.W.1 is found to be contradictory & hence not reliable. The learned Advocate for the Management submitted that in the MOS dated 16.9.2010 marked as Exhibit-9 the employees in SSG Grade-VIII who do not get promotion to Officer Grade on completion of 6 years in the Grade were allowed additional increments, and besides the above no other stagnation benefit shall be permissible to be admissible to the workmen in Grade-VIII. He also pointed out that as per the memorandum of settlement dated 27.10.2010 the agreement(s) related to any other pay related benefits arrived at between the recognized Union of the erstwhile BRPL and its management in respect of the workmen of Bongaigaon Refinery have been superseded. As such, the workmen are not entitled to any frozen amount/personal pay @ Rs. 950 per month and hence, the management rightly discontinued the payment of frozen amount/personal pay.

Mr. Sarma, learned Advocate for the Management in support of his contention relied upon the decision laid down in *P. Virudhachalam and Ors. -vrs- Management of Lotus Mills and another*, reported in (1998) 1 SCC 650, wherein it was held that any settlement between the employer and the employees is placed on a higher pedestal than an award passed after adjudication. The machinery of the Act envisages resolution of industrial disputes and conflicts at the grassroot level by conciliation by which settlement can be arrived at between the employer and the workmen and industrial peace can be achieved and industrial strife can be put to an end. In view of Section 2(p), a settlement which is based on a written agreement between the parties can be arrived at either in conciliation proceedings or even outside conciliation proceedings between the representatives of the workmen on the one hand and the management on the other. Section 18(1) and (3) deal with the binding nature of the two types of settlement.

Mr. Sarma again relied upon decision laid down in *Indian Rare Earths Ltd. and Another -vrs- Pramod Chandra Panigrahi and others* reported in (2005) 13 SCC 379, that it is settled law that a settlement, admittedly arrived at in the conciliation proceedings, is binding on all. This is clear from Section 18 of the Industrial Disputes Act.

He also cited the case of *National Engineering Industries Ltd. -vrs- State of Rajasthan and Ors.* published in (2000) 1 SCC 371, wherein the Hon'ble Supreme Court held that Where pursuant to identical charters of demands made by several unions, the management and a representative union reached a conciliation settlement to be operative immediately after the expiry of the previous settlement, the new settlement became binding on all workmen of the establishment including those belonging to a dissenting minority union—Principle of collective bargaining underlying the Act for resolving industrial disputes and maintaining peace, taken

note of—Hence, during the existence of such a settlement, a dissenting minority union, which was not eligible for registration as a representative union, was not entitled to raise an industrial dispute in respect of the demands left out in the new settlement. It is also held by the Apex Court that in the said circumstances the notice given by such a minority union under S. 19(2) to terminate the earlier settlement was invalid.

To assail the argument of learned Advocate for the workman Mr. H. Sarma pointed out that no notice shall be required for effecting any change as provided in Section 9A Proviso (a) and (b) where the change is effected in pursuance of any settlement or award. In the instant reference it is crystal clear that the stagnation benefit has already been granted to the workmen vide Exhibit-9 and that the said MOS (Exhibit-9) specifically mentioned that no other stagnation benefit shall be permissible to be admissible to the workmen in Grade-VIII. He also mentioned that according to the MOS dated 27.10.2010 (Exhibit-10) all other agreement(s), related to any other pay related benefit arrived at between the recognized Union of the erstwhile BRPL and its management have been superseded by the said settlement (Exhibit-10). As such, the argument advanced by the learned Advocates for the workmen is not at all fair and hence, it is liable to be rejected.

7. From the evidence on record as discussed above it appears that on the basis of a tripartite settlement dated 13.2.1991 (Exhibit-2) on promotion policy a bipartite settlement titled as "Channel of promotion from non-executive to executive cadre" was arrived at on 24.7.1995 extending frozen amount to the tune of Rs. 950 per month to the employees in SSG grade vide Exhibit-4. Thereafter a settlement arrived between the Management of BGR and Petro-Chemical Ltd. and their workmen in presence of RLC(C), Guwahati on 25.7.2004 in which the SSG employees who have completed 6 years in SSG as per the cut off date eligibility, starting from the year 2004 and not promoted to executive Grade-B were allowed reimbursement of local travel expenses for car up to 70% of the rate as admissible to Executive in grade B and lump sum amount of Rs. 550 p.m. as "Compensating Allowance" vide Exhibit-6. Again in a tripartite settlement between the BRPL & their employees at the instance of RLC(C), Guwahati on 6.12.2004 regarding promotion policy. As per the said settlement the employees in SSG grade upon completion of 6 years in SSG grades as per the cut off date of eligibility starting from the year 2004 and not promoted to executive grade B were allowed the benefit of frozen amount of Rs. 950 per month as personal pay till promotion to executive grade B vide para-2.1 of Exhibit-7. Subsequently the BGR and Petrochemicals Ltd. was merged with the Indian Oil Corporation Ltd. with effect from 25.3.2009 and thereby BGPRL becomes a unit of IOCL and known as IOCL. Consequent upon the merger of BGR and Petrochemicals Ltd. with the Indian Oil Corporation

Ltd. a long terms settlement was arrived between the management of Oil India Corporation Ltd., Refineries Division (including Corporate Office), Pipelines Division, R & D Centre and Assam Oil Division, New Delhi and the recognized Union operating the various establishment in the Division Corporate Office, New Delhi and Assam Oil Division was signed on 29.7.2010 for a period of 10 years vide Exhibit-8. Subsequently another memorandum of settlement was arrived on 16.9.2010 between the management of Indian Oil Corporation Ltd. (Refineries Division), BGR and their workmen represented by BGR employees Union before the Assistant Labour Commissioner (C), Guwahati vide Exhibit-9. In both the settlements marked as Exhibit-8 and 9 there is no mention of the frozen amount/personal pay however in the MOS dated 16.9.2010 (Exhibit-9) at Clause-3 regarding stagnation in grade VIII it was agreed that the workmen in salary grade VIII, who do not get promotion to officer Grade A upon completion of 6 years in the grade shall be given an additional increment at the rate of last increment drawn as personal pay, provided he has minimum satisfactory ACR rating in the preceding 3 years which will be treated as basic pay for all purposes; and this benefit would be admissible till the workman is promoted to grade A Officer. It is also agreed that such eligible workman who do not get promotion to Officer grade-A upon completion of another 4 years service in Grade VIII from the date of grant of personal pay as stagnation benefit as above shall be granted one additional increment @ last increment drawn as additional personal pay which will be treated as basic pay for all purposes. Further it was also decided that the benefit of additional personal pay shall also be performance link and shall be given to such workmen who have minimum 2 “outstanding” CR in grade VIII in the preceding 4 years. It has been clearly mentioned in the note of clause-3 of the aforesaid settlement vide Exhibit-9(ii) that besides the above, no other stagnation benefit shall be permissible to be admissible to the workmen in Grade VIII. It is found in the settlement arrived at on 27.10.2010 before the RLC (C), Guwahati, between the management of Indian Oil Corporation Ltd. (Refineries Division), BGR and their workmen regarding revision of pay scale, pay related and other allowance for the workmen proved as Exhibit-10 wherein in Clause-2.4 marked as Exhibit-10(i) which specifically mentions as “This Settlement will supersede the agreement(s), related to any other pay related benefits, arrived between the recognized Union of the erstwhile BRPL and its Management in respect of workmen of BGR”, and in both the settlements the workmen witness No.1 was the signatory as President of the Union vide Exhibit-9(1) and Exhibit-10(1).

Thus it is clear that although the management agreed to pay some benefits due to the stagnation in promotion of the employees of the BRPL prior to their merger in the form of reimbursement of some expenditures such as, local travel expenses, children allowances, compensatory

allowances, frozen amount/personal pay at different times have been discontinued as per the terms of the tripartite settlement marked as Exhibit-8 & 9 where there is no mention to frozen amount/personal pay, rather in order to compensate the stagnation benefit as additional increment at the rate of last increment drawn as personal pay was allowed. While according to the memorandum of settlement dated 27.10.2010 (Exhibit-10) all other agreement(s), related to any other pay related benefits arrived at between the recognized Union and the erstwhile BRPL in its management in respect of the workmen of BGR were superseded.

8. Section 18 of I.D.Act runs as follows :

“Persons on whom settlements and awards are binding—(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) Subject to the provisions of sub-section (3), an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

(3) A settlement arrived at in the course of conciliation proceedings under this Act or an arbitration award in a case where a notification has been issued under sub-section (3A) of Section 10A or an award of a Labour Court, Tribunal or National Tribunal which has become enforceable shall be binding on—

- (a) all parties to the industrial dispute;
- (b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, arbitrator Labour Court, Tribunal or National Tribunal, as the case may be, records the opinion that they were so summoned without proper cause;
- (c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;
- (d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.”

Thus the provision of Section 18 of I.D.Act is very clear as regards the binding of settlements and awards

and the evidence of W.W.1 shows that he himself represented the Union in all the settlement and, the settlement dated 27.10.2010 (Exhibit-10) superseded all other settlements/agreement(s) relating to any other pay related benefit arrived between the recognized union of the erstwhile BRPL and in its management in respect of workmen of BGR.

9. The plea of the workmen that the Management has withdrawn the frozen amount/personal pay illegally without issuing any prior notice. On a plain reading of proviso of the Section 9A of the I.D. Act, it is found that where the change is effected in pursuance of any settlement or award no notice shall be required for informing such change. The MOS marked as Exhibit-9 & 10 clearly shows that the claim for stagnation of promotion of SSG grade-VIII employee have been settled up by allowing them one increment and that in terms of the MOS dated 27.10.2010 all other previous settlements/agreement(s) were superseded. In view of the submission of learned Advocate for both the sides and the decisions of the Hon'ble Supreme Court arrived at in the cases as relied upon by the learned Advocate for the management and having regard to the provisions of law as discussed above, I find no reason to entertain the plea of the workmen and hence, the arguments placed by Mr. J.K. Kar and R. Barpujari are rejected.

Further pleading of the workmen is that the frozen amount/personal pay is a form of allowance and part of wages and as such, it is a condition of service already enjoyed by the workmen, which can not be discontinued, while the management vide their letter marked as Exhibit-11 discontinued the same illegally. The frozen amount/personal pay was allowed admissible by the management in order to compensate the workmen in SSG grade-VIII grade and those workmen who have not got their promotion to higher grade on completion of six years and hence, the frozen amount/personal pay granted by the management is a pay related benefit. According to Clause 3 of the MOS marked as Exhibit-9 the stagnation benefit to SSG grade VIII of the employee has been given in the form of additional increment at the rate of last increment drawn as personal pay and besides the said benefit, no other stagnation benefit shall be permissible to be admissible to the workmen in grade VIII. As such, I find no force in the argument raised by the learned Advocates for the workmen.

10. From my above discussion and having regard to my findings arrived at as above it can safely be held that the workmen have not been able to establish their claim that they are entitled to frozen amount/personal pay of Rs. 950 per month in terms of the settlement dated 29.7.2010, 16.9.2010 and 27.10.2010 (Vide Exhibit-8, Exhibit-9 & Exhibit-10 respectively). Accordingly it is opined that the action of the management of M/s IOCL, Bongaigaon Refinery in discontinuance of the payment of frozen amount/personal

pay of Rs. 950 per month in terms of Tripartite Settlement dated 29.7.2010 (clause 2.4) is justified and as such, the workmen under grade-VIII (earlier SSG) employees are not entitled to any relief. In the result, this reference is decided in negative against the workmen.

11. Send the no relief Award to the Government as per law.

Given under my hand and seal of this Court on this 16th day of May, 2014, at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स डी. आई. ए. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 26/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-11012/1/2010-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2010) of the Central Government Industrial Tribunal/Labour Court-2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. DIAL and their workman, which was received by the Central Government on 6/6/2014.

[No. L-11012/1/2010-IR(M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT - II, DELHI

Present:- SHRI HARBANSH KUMAR SAXENA

ID No. 26/2010

Sh. Harbir Singh and Ors.

Versus

Dial, Cargo Terminal, IGI

No DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-11012/1/2010-IR (M) dated 14.07.2010 referred the following Industrial Dispute to this tribunal for adjudication :-

“1. Whether the action of the management of M/s. EATS, Contractor of M/s. DIAL in closing down their establishment on 15/10/2008, without following provisions of I.D. Act is justified or legal? What relief the workmen are entitled for?”

“2. Whether the action of the management of M/s. UP Purva Sainik Kalyan Nigam Ltd., Contractor of M/s. DIAL in not allowing to work to the workmen (List enclosed) on and after 16/10/2008 is justified or legal? What relief the workmen are entitled for?”

On 26.07.2010 reference was received in this tribunal. Which was register as I.D. No. 26/2010 and claimants were called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice 199 workmen/Claimants on 22.09.2011 filed claim statement, without affidavit. Through which they claimed continuity of service and back wages alongwith their reinstatement etc.

Respondent No.1, 2 and 3 separately filed written statement. Through which they claimed dismissal of claim statement. Workmen through authorized representative filed rejoinders unsupported with affidavit.

Case proceeded on the basis of question of determination mentioned in reference.

Claimant's /Workmen continuously remained absent and adduced no evidence in their support.

While MW1 Sh. G. Ch. Bhusan was produced as MW1, Sh. Major Naresh Kumar as MW2, Sh. GP. Capt. Prashant Chandra MW3 were produced as witness on behalf of respondents. They tendered their affidavit.

Thereafter I heard the arguments.

In the light of arguments I perused the evidence on record which makes it crystal clear that there is no evidence of workmen on record to support the claim statement of workmen.

In these circumstances this tribunal has no option except to dismiss the claim statement.

On the basis of aforesaid discussion I am of considered view that present reference is liable to be decided against workmen/Claimants and in favour of management.

Which is accordingly decided.

No Dispute Award is accordingly passed.

Dated:-09/05/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 17 जून, 2014

का.आ. 1769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या 05/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-17012/5/2008-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2008) of the Central Government Industrial Tribunal/Labour Court, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-17012/5/2008-IR(M)]

JOHAN TOPNO, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर

पीठासीन अधिकारी : श्री रवि कुमार गुप्ता, आरएचजेएस

प्रकरण संख्या सीआईटीआर 05/08

रेफरेंस संख्या एल-17012/5/2008-आईआर(एम) दिनांक 23.6.2008

श्री रमेश चंद बुंदेल पुत्र
श्री घीसूलाल बुंदेल जरिये
सेक्रेट्री ऑल इंडिया एस.सी./
एस.टी. एंड बुद्धिष्ट,
एलआईसी एम्प्लोईज वेलफेयर
एसोसिएशन केयर ऑफ एलआईसी
ऑफ इंडिया, डिवीजन ऑफिस
रानाडे मार्ग, अजमेर

...प्राथी

बनाम

दी सीनियर डिवीजनल मैनेजर,
एलआईसी ऑफ इंडिया,
डिवीजनल ऑफिस,
जीवन प्रकाश रानाडे मार्ग, अजमेर

...अप्राथी

उपस्थिति

प्रार्थी की ओर से : श्री डी.डी. शर्मा, अधिवक्ता
अप्रार्थी की ओर से : श्री कृष्णावतार, अधिवक्ता

अवार्ड

दिनांक : 13.11.2013

1. केन्द्र सरकार, श्रम विभाग की ओर से इस न्यायालय के अधिनिर्णयार्थ निम्न विवाद प्रेषित किया गया है :

2. नोटिस के उपरान्त उभय पक्ष उपस्थित आए। प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम में यह कहा गया है कि अप्रार्थी ने पारित दंडादेश दिनांक 28.2.2005 से तीन वेतन वृद्धियां मय महंगाई भत्ते जो काटी गई है उन्हें मय ब्याज ग्यारह प्रतिशत वार्षिक की दर से भुगतान दिलाया जावे व अन्य अनुतोष जो उचित हो भी दिलवाने की प्रार्थना की है क्योंकि अप्रार्थी ने प्रार्थी को एक आरोप पत्र दिनांक 30.7.2004 प्रदत्त कर आरोप लगाया है कि श्रमिक ने ऊंची आवाज में श्री संतोष कपूर सहायक से अभद्र व्यवहार किया व अपशब्द कहे व कार्यालय में गरिमा एवं मर्यादा का उल्लंघन किया, जिसकी विभागीय जांच की गई, जिसमें अप्रार्थी ने पूर्वाग्रह से प्रसित होकर प्राकृतिक न्याय के सिद्धान्तों के विरुद्ध दंडादेश दिनांक 28.2.2005 पारित कर तीन वार्षिक वेतन वृद्धि स्थाई रूप से रोक दी। आगे क्लेम में यह भी लिखा है कि विभागीय अपील में भी उसे व्यक्तिगत रूप से सुने बिना उसका दंडादेश बहाल रखा। अंत में दंडादेश को अवैध बताते हुए कई कारणों का विस्तृत उल्लेख करते हुए यह भी लिखा है कि उसने जांच अधिकारी बदलने की मांग की थी किन्तु अप्रार्थी ने कोई उत्तर नहीं दिया। अंत में दंडादेश को अनुपातिक रूप से अत्यधिक होना भी वर्णित किया है। समर्थन में प्रार्थी का शपथ पत्र भी पेश किया है।

3. इसके विपरित जवाब में अप्रार्थी की ओर से यह कहा गया है कि प्रार्थी का उक्त मांग पत्र निरस्त करते हुए रेफरेंस खारिज करने का निवेदन किया है क्योंकि (प्रारम्भिक आपत्ति) यह विवाद औद्योगिक विवाद की परिभाषा में नहीं आता है वह प्रार्थी भी श्रमिक की परिभाषा में नहीं आता है व न ही उसका कार्य व वेतन भी श्रमिक की परिभाषा में नहीं आते हैं। आगे जवाब में यह अंकित किया है कि वेलफेयर एसोसिएशन का प्रार्थी की सेवा संबंधी विवाद उठाने का अधिकार नहीं है, इसलिए भी प्रार्थी का मांग पत्र खारिज किए जाने योग्य होना बताया है। श्री संतोष कपूर को पक्षकार नहीं बनाया गया है। आगे जवाब में यह भी लिखा है कि प्रार्थी ने जांच अधिकारी बदलने की मांग नहीं की, प्रार्थी ने जांच में जानबूझकर भाग नहीं लिया, न ही किसी प्रकार की आपत्तियां पेश की, प्रार्थी जानबूझकर बार-बार सूचना दिए जाने के बावजूद जांच कार्यवाही में उपस्थित नहीं हुआ। अंत में दंडादेश को अनुपातिक रूप से सही होना बताते हुए प्रार्थी को किसी अनुतोष का अधिकारी नहीं होना वर्णित किया है। साथ ही अतिरिक्त अभिकथन में यह भी लिखा है कि यदि न्यायालय जांच में कोई विधिक त्रुटि मानती है तो न्यायालय के माध्यम से जांच कराए जाने को अप्रार्थी तत्पर होना कहा है समर्थन में श्री एम.एल. चौधरी मंडल प्रबंधक का शपथ पत्र भी पेश किया गया है।

4. उभयपक्ष की बहस सुनी गई, पत्रावली का अवलोकन किया गया। उभयपक्ष की ओर से लिखित बहस व उसका जवाब भी प्रस्तुत किए गए हैं। उभयपक्ष की ओर से मौखिक व लिखित बहस में क्लेम व जवाब के तथ्यों को ही लगभग दोहराया है।

5. अप्रार्थी पक्ष की मुख्य व प्रथम आपत्ति यही है कि प्रार्थी का यह विवाद औद्योगिक विवाद की परिभाषा में नहीं आता है व प्रार्थी भी श्रमिक की श्रेणी में नहीं आता है। इस संदर्भ में आई.डी. एक्ट, 1947 श्रमिक की परिभाषा का अवलोकन किया गया, जिसमें कर्मकार की परिभाषा निम्न प्रकार है “कर्मकार” से कोई ऐसा व्यक्ति (जिसके अंतर्गत शिशु भी आता है) अभिप्रेत है, जो किसी उद्योग में भाड़े या इनाम के लिए कोई शारीरिक, अकुशल, तकनीकी, सक्रियात्मक, लिपिकीय या पर्यवेक्षणिक कार्य करने के लिए नियोजित है, चाहे नियोजन के निबंधन अभिव्यक्त हों या विवक्षित और किसी औद्योगिक विवाद के संबंध में इस अधिनियम के अधीन की किसी कार्यवाही के प्रयोजनों के लिए इसके अंतर्गत कोई ऐसा व्यक्ति आता है जो उस विवाद के संबंध में या उसके परिणामस्वरूप पदच्युत या उन्मोचित कर दिया गया है या जिसकी छंटनी कर दी गई है अथवा जिसकी पदच्युति उन्मोचन या छंटनी किए जाने से वह विवाद पैदा हुआ हो, किन्तु इसके अंतर्गत कोई ऐसा व्यक्ति नहीं आता है जो

- “1. वायुसेना अधिनियम, 1950 (1950 का 45) या सेना अधिनियम, 1950 (1950 का 46) या नौसेना अधिनियम, 1957 (1957 का 62) के अधीन हो, अथवा
2. पुलिस सेवा में या किसी कारागार के अधिकारी या अन्य कर्मचारी के रूप में नियोजित हो, अथवा
3. मुख्यतः प्रबंधकीय या प्रशासनिक हैसियत में नियोजित हो, अथवा
4. पर्यवेक्षणिक हैसियत में नियोजित होते हुए प्रतिमास एक हजार छः सौ (अब दस हजार रुपये) से अधिक मजदूरी लेता हो अथवा या तो पद से संलग्न कर्तव्यों की प्रकृति के या अपने में निहित शक्तियों के कारण ऐसे कृत्यों का प्रयोग करता है जो मुख्यतः प्रबंधकीय प्रकृति के हैं।”

6. पत्रावली पर उपलब्ध समस्त दस्तावेजी साक्ष्य का समग्र व प्रथक-प्रथक रूप से अवलोकन करने व प्रार्थी पक्ष द्वारा इस बिन्दु को सिद्ध करने की बाबत कोई विधिक दृष्टांत भी प्रस्तुत नहीं करने के कारण प्रार्थी यह सिद्ध करने में पूर्णतया विफल रहा है कि यह विवाद औद्योगिक विवाद की परिभाषा में आता है। साथ ही प्रार्थी भी श्रमिक की परिभाषा में आता हो, यह भी प्रार्थी पक्ष साबित करने में पूर्णतया असफल रहा है। उल्लेखनीय है कि प्रार्थी ने अपने क्लेम में ही स्वयं को अप्रार्थी संस्थान में अभिलेख लिपिक होना वर्णित किया है एवं घटना/विवाद की दिनांक 20.7.2004 को उभयपक्ष ने स्वीकारा है। चूंकि प्रकरण वर्ष 2005 का है, अतः तत्समय भी प्रार्थी का वेतन (पुरानी दर के अनुसार सौलह सौ रुपये से अधिक) था। इसे प्रार्थी पक्ष भी दबे स्वरो में सहमत है। ऐसी स्थिति में मात्र इसी आधार पर प्रार्थी मेरे विनम्र मत में इस न्यायालय के समक्ष स्वयं को श्रमिक व

औद्योगिक विवाद होने बाबत कोई ठोस साक्ष्य प्रस्तुत नहीं कर पाने के कारण अपना प्रकरण साबित करने में पूर्णतया असफल रहा है। अतः यदि प्रार्थी चाहे तो सक्षम न्यायालय के समक्ष अपने विधिक अधिकारों का प्रयोग करने को स्वतंत्र होगा। अतः तदनुसार विवाद का उत्तर दिया जाना न्यायसंगत होगा।

आदेश-अवार्ड

फलतः श्रम विभाग केन्द्र सरकार की ओर से प्रेषित विवाद का उत्तर इस प्रकार से दिया जाता है कि प्रार्थी रमेश चंद्र बुंदेल स्वयं को श्रमिक होना व यह विवाद औद्योगिक विवाद की श्रेणी में आना साबित नहीं कर पाने के कारण अप्रार्थी से अथवा इस न्यायालय से कोई राहत पाने का अधिकारी नहीं है।

रवि कुमार गुप्ता, न्यायाधीश

नई दिल्ली, 17 जून, 2014

का.आ. 1770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लाइफ इन्शुरेन्स कारपोरेशन ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 19/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-17012/5/2009-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2009) of the Central Government Industrial Tribunal/Labour Court, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman, which was received by the Central Government on 6/6/2014.

[No. L-17012/5/2009-IR(M)]

JOHAN TOPNO, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा
(राज.)

पीठासीन अधिकारी : श्री प्रकाश चन्द्र पगारीया,
आर.एच.जे.एस

निर्देश प्रकरण क्रमांक : औ. न्या./केन्द्रीय/19/2009

दिनांक स्थापित : 16.12.2009

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल-17012/5/09-आईआर (एम) दिनांक 18/9/96

निर्देश/विवाद अंतर्गत धारा 10(1) (घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

सत्यनारायण शर्मा पुत्र भोजाशंकर शर्मा,

द्वारा संयुक्त सचिव, हिन्द मजदूर सभाग, बंगाली कालोनी,
छावनी, कोटा

—प्रार्थी/कर्मकार

एवं

रीजनल मैनेजर, भारतीय जीवन बीमा निगम,

डिविजनल ऑफिस जीवन प्रकाश,

रेनाडे मार्ग, पीबी 2, अजमेर

—अप्रार्थी/नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर : कोई उपस्थित नहीं
से प्रतिनिधि

अप्रार्थी नियोजक की ओर : कोई उपस्थित नहीं
से प्रतिनिधि

अधिनिर्णय दिनांक : 23/7/2013

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश क्रमांक एल-17012/5/09-आईआर (एम) दिनांक 18/9/09 के द्वारा निम्न निर्देश/विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10 (1)(घ) के अंतर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :

“Whether Shri Satyanarayan Sharma S/o Shri Bhojashanker Sharma has worked continuously from 16/4/2003 to 9/7/2007 and has completed 240 days of service in calander year? If so, whether the action of the management of LIC in terminating the services of Shri B. Sharma w-e-f- 10/7/2007 is just and legal? What relief the workman is entitled to and from which date?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरांत पक्षकारों को नोटिस/सूचना जारी कर विधिवत अवगत करवाया गया।

3. यह रेफ्रेन्स इस न्यायाधिकरण में प्रकरण सं. आईटी (केन्द्रीय)-19/09 के रूप में दिनांक 16/12/09 को दर्ज किया गया। इस मामले में सुनवाई के दौरान यह प्रकट हुआ कि इसी तिथि का इसी कर्मकार के संबंध में रेफ्रेन्स पूर्व में इस न्यायाधिकरण को प्राप्त होकर दिनांक 20/10/09 को दर्ज होकर प्रकरण संख्या आईटी (केन्द्रीय)-15/09 के रूप में लंबित है, अतः उस प्रकरण पत्रावली को भी सुनवाई हेतु एक ही साथ नियत किया गया। उस रेफ्रेन्स की प्रकरण पत्रावली में भी विवाद का बिन्दु

शर्तें व पक्षकारान समान हैं एवं दोनों में ही सेवामुक्ति की तिथि 10/7/2007 है।

4. अतः एक ही कर्मकार की एक सेवामुक्ति के संबंध में दो रेफ्रेन्स कानून नहीं चल सकते हैं क्योंकि दोनों में विवाद का बिन्दु, पक्षकारान भी समान हैं। अतः पश्चात्पूर्वी रेफ्रेन्स प्रकरण सं. आईटी (केन्द्रीय)—19/09 जो सहमत से दर्ज रजिस्टर हो गया है, उसको अब और चलाए जाने का कोई आधार नहीं है क्योंकि सभी बिन्दुओं का विनिश्चय तो पूर्व के लंबित रेफ्रेन्स प्रकरण संख्या आईटी (केन्द्रीय) 15/09 में हो जायेगा। अतः पश्चात्पूर्वी रेफ्रेन्स प्रकरण सं. आईटी (केन्द्रीय)—19/09 इसी प्रक्रम पर निस्तारित होकर फैसल शुमार किये जाने योग्य है।

परिणामस्वरूप पश्चात्पूर्वी रेफ्रेन्स प्रकरण संख्या आईटी (केन्द्रीय)—19/09 इसी अनुरूप उत्तरित किया जाता है कि पूर्व में ही इसी विवाद के संबंध में प्रकरण सं. आईटी (केन्द्रीय)—15/09 लंबित होने से यह रेफ्रेन्स प्रकरण सं. आईटी (केन्द्रीय)—19/09 चलने योग्य नहीं है एवं इसमें प्रार्थी को कोई अनुतोष नहीं दिया जा रहा है। प्रार्थी जो भी अनुतोष आदि प्राप्त करेगा वह रेफ्रेन्स प्रकरण सं. आईटी (केन्द्रीय)—15/09 में प्राप्त कर सकेगा। अतः इसी के साथ यह पत्रावली फैसल शुमार की जाकर रेफ्रेन्स प्रकरण सं. आईटी (केन्द्रीय)—15/09 के साथ संलग्न की जावे।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 17 जून, 2014

का.आ. 1771.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स जहूर अहमद पुत्र अब्दुल मजीद भाई, लाइम स्टोन माइंस ओनर, पिपाखेड़ी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 13/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-29011/43/2006-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2008) of the Industrial Tribunal/Labour Court, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Jahur Ahmad S/o Abdul Majid Bhai, Lime Stone Mines Owner, Pipakhedi and their workman, which was received by the Central Government on 6/6/2014.

[No. L-29011/43/2006-IR(M)]

JOHAN TOPNO, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा
(राज.)

पीठासीन अधिकारी : श्री प्रकाश चन्द्र पगारीया,

आरएचजेएस

निर्देश प्रकरण क्रमांक : औ. न्या./केन्द्रीय/13/2008

दिनांक स्थापित : 17.4.2008

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल-29011/43/06-आईआर (एम) दिनांक 11/3/08

निर्देश/विवाद अंतर्गत धारा 10(1) (घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

जनरल सेक्रेटरी, राष्ट्रीय मजदूर संघ (इंटक)

रामगंज मण्डी जिला कोटा

—प्रार्थीगण कर्मकार

—यूनियन

एवं

जहूर अहमद पुत्र अब्दुल मजीद भाई,

लाईम स्टोन, माईन्स ऑनर, पीपाखेड़ी,

कोटा (राजस्थान)

—अप्रार्थी नियोजक

उपस्थित

प्रार्थीगण कर्मकार यूनियन की ओर से प्रतिनिधि :

— कोई उपस्थित नहीं

अप्रार्थी नियोजक की ओर से प्रतिनिधि :

— एकपक्षीय कार्यवाही

अधिनिर्णय दिनांक 31/7/2013

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश क्रमांक एल-29011/43/06-आईआर(एम) दिनांक 11/3/08 के द्वारा निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त) "अधिनियम" से संबोधित किया जावेगा) की धारा 10(1)(घ) के अंतर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:—

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरांत पक्षकारों को नोटिस/सूचना जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थीगण कर्मकार यूनियन की ओर से क्लेम स्टेटमेंट पेश किया गया जिसमें वर्णित किया गया कि प्रार्थीगण कर्मकारों/श्रमिकों की एक रजिस्टर्ड चुनी हुई संस्था/यूनियन है तथा इस यूनियन द्वारा अप्रार्थी संस्थान में कार्यरत श्रमिकों के संबंध में एक मांगपत्र दिया गया वे मांगे 1/11/05 से स्वीकार किये जाने का निवेदन किया परन्तु वे मांगे मंजूर नहीं की गयी।

फिर इस संबंध में सहायक श्रम आयुक्त के माध्यम से भी एक स्मरण-पत्र भिजवाया गया, वहां पर नियोजक पक्ष को बुलवाया गया परन्तु वार्ता हेतु कोई उपस्थित नहीं हुआ। नियोजक वर्ग श्रमिकों के प्रति उपेक्षापूर्ण व्यवहार रखता है एवं इसी कारण से नियोजक पक्ष ने यूनियन की उचित मांगों को भी नहीं माना जिसके कारण केन्द्रीय श्रम मंत्रालय, नई दिल्ली द्वारा यह रेफ्रेन्स इस न्यायाधिकरण को भेजा गया। अतः रेफ्रेन्स के माध्यम से इस यूनियन ने अपने 5 सूत्री मांग-पत्र जो दिनांक 1/11/05 को नियोजक के यहां पेश किया था, उसे स्वीकार कर अनुतोष दिलाये जाने की मांग की।

4. इस रेफ्रेन्स से अप्रार्थी को अवगत करवाया गया। अप्रार्थी की ओर से बावजूद नोटिस तामील के भी किसी के उपस्थित नहीं आने से आदेशिका दिनांक 30/9/11 के द्वारा अप्रार्थी नियोजक के विरुद्ध एकपक्षीय कार्यवाही का आदेश दिया गया एवं उसके पश्चात् से पत्रावली आज दिन तक साक्ष्य प्रार्थी हेतु नियत की जाती रही परन्तु आज दिन तक कोई साक्ष्य, साक्ष्य प्रार्थी एकतरफा में भी पेश नहीं हुई। आदेशिका दिनांक 12/3/12 द्वारा भी प्रार्थी यूनियन को साक्ष्य हेतु अवसर दिया गया। इसके पश्चात् दिनांक 23/8/12 व 12/3/13 को भी कोई साक्ष्य प्रार्थी एकतरफा पेश नहीं हुई, हालांकि इन दोनों दिन स्थानीय बार द्वारा न्यायिक कार्य स्थगित किया हुआ था। आज भी सुनवाई तिथि पर ना तो प्रार्थीगण या यूनियन के कोई पदाधिकारी/प्रतिनिधि उपस्थित हुए एवं ना ही कोई साक्ष्य पेश की गयी। औद्योगिक विवाद नियम 10-बी(8) के तहत किसी भी पक्षकार को साक्ष्य आदि प्रयोजन हेतु तीन ही अवसर दिये जाने एवं इन अवसरों के स्थगन की अवधि भी प्रायः सप्ताह भर की ही होगी, ऐसा उपबंधित है।

हस्तगत मामले में तो प्रार्थी पक्ष को एकपक्षीय कार्यवाही के आदेश दि. 30/9/11 को होने से आज दिन तक करीबन 26 माह का समय एकपक्षीय साक्ष्य पेश किये जाने हेतु मिल चुका है परन्तु आज दिन तक कोई साक्ष्य पेश नहीं की गयी, यहां तक कि किसी का शपथ-पत्र भी पेश नहीं हुआ है एवं आज की सुनवाई तिथि पर तो प्रार्थी यूनियन की ओर से कोई उपस्थित ही नहीं हुआ है। अतः ऐसे में पक्षकार की अनुपस्थिति में न्यायालय स्वयं अपनी प्रेरणा से प्रकरण को आगे नहीं चला सकता है। यदि पक्षकार न्यायालय से अनुतोष चाहता है तो उसे न्यायालय में आकर अपने मामले में पैरवी करनी होगी। हस्तगत मामले में आज प्रार्थीगण की ओर से किसी के उपस्थित नहीं आने से व ना ही किसी प्रकार की कोई साक्ष्य पेश होने से अब अनिश्चितकाल तक उनके आने के इंतजार में ही मामला लंबित नहीं रखा जा सकता है एवं एतद्वारा साक्ष्य प्रार्थी बंद की जाती है। अप्रार्थी के विरुद्ध भी पूर्व में ही एकपक्षीय कार्यवाही के आदेश है।

5. चूंकि क्लेम स्टेटमेंट में वर्णित तथ्यों को प्रार्थीगण/यूनियन को अपनी साक्ष्य से साबित करना था परन्तु प्रार्थी पक्ष द्वारा कोई साक्ष्य पेश नहीं की गयी, यहां तक कि एकपक्षीय साक्ष्य में किसी का शपथ-पत्र भी पेश नहीं हुआ एवं ना ही आज की सुनवाई तिथि पर प्रार्थीगण की ओर से कोई उपस्थित आये, अतः ऐसी

परिस्थिति में प्रार्थी पक्ष अपने क्लेम स्टेटमेंट में वर्णित तथ्यों को साक्ष्य से साबित करने में विफल रहा है, अतः प्रार्थीगण/यूनियन इस मामले में कोई अनुतोष प्राप्त करने के अधिकारी नहीं बनते हैं एवं रेफ्रेन्स भी इसी अनुरूप उत्तरित होने योग्य है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश क्रं. एल-29011/43/2006-आईआर(एम) दिनांक 11/3/08 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स को इसी प्रकार उत्तरित किया जाता है कि मामले में प्रार्थीगण यूनियन की ओर से प्रस्तुत अपने क्लेम स्टेटमेंट के समर्थन में किसी प्रकार की कोई साक्ष्य पेश नहीं की गयी है, अर्थात् वो प्रार्थीगण के मामले को साबित करने में विफल रही है, अतः प्रार्थीगण/यूनियन कोई अनुतोष प्राप्त करने के अधिकारी नहीं हैं।

प्रकाश चन्द्र पगारीया, न्यायाधीश

नई दिल्ली, 17 जून, 2014

का.आ. 1772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैनेजर, मैसर्स मंजीत स्टोन कंपनी, कोटा के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण एवं श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 3/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 06/06/2014 को प्राप्त हुआ था।

[सं. एल-29012/47/2007-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 17th June, 2014

S.O. 1772.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2008) of the Industrial Tribunal/Labour Court, Kota now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Manager, M/s. Manjeet Stone Company, Kota and their workman, which was received by the Central Government on 6/6/2014.

[No. L-29012/47/2007-IR(M)]

JOHAN TOPNO, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा
(राज.)

पीठासीन अधिकारी : श्री प्रकाश चन्द्र पगारीया,
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निर्देश/विवाद अंतर्गत धारा 10(1) (घ) औद्योगिक विवाद अधिनियम, 1947

मध्य

भवर सिंह पुत्र भीम सिंह द्वारा महामंत्री, पत्थर खान कामगार यूनियन, बंगाली कालोनी, छावनी, कोटा ।

—प्रार्थी कर्मकार यूनियन

एवं

मैनेजर, मै. मनजीत स्टोन कम्पनी, छावनी, कोटा ।

—अप्रार्थी नियोजक

उपस्थित

प्रार्थी कर्मकार यूनियन की : श्री पुरुषोत्तम दाधीच
ओर से प्रतिनिधि

अप्रार्थी नियोजक की ओर : एकपक्षीय कार्यवाही
से प्रतिनिधि

अधिनिर्णय दिनांक 17/9/2013

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश क्रमांक एल-29012/47/07-आईआर(एम) दिनांक 4/12/07 के द्वारा निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से संबोधित किया जावेगा) की धारा 10(1)(घ) के अंतर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :-

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को नोटिस/सूचना जारी कर विधिवत अवगत करवाया गया ।

3. प्रार्थी कर्मकार की ओर से उसके विधिक प्रतिनिधि द्वारा क्लेम स्टेटमेंट पेश किया गया जिसमें वर्णित किया गया कि प्रार्थी भंवर सिंह को अप्रार्थी प्रबंधक मनजीत स्टोन कंपनी छावनी, कोटा नियोजक द्वारा दिनांक 1/1/60 को ड्राईवर के पद पर नियोजित किया गया व दिनांक 1/3/05 से उसे नौकरी से हटा दिया गया । हटाने का कारण यह है कि कर्मकार ने नियोजक से दिनांक 1/3/05 से 31/8/05 तक के वेतन की मांग की है । कर्मकार की यूनियन ने एक नोटिस भी नियोजक को भेजा परन्तु नियोजक ने कोई उत्तर नहीं दिया । अतः प्रार्थी कर्मकार यूनियन ने प्रार्थी कर्मकार को दिनांक 1/3/05 से 31/8/05 तक का वेतन नियोजक से दिलाये जाने के अनुतोष की मांग इस क्लेम स्टेटमेंट के माध्यम से की ।

4. मामले में अप्रार्थी नियोजक के बावजूद तामील नोटिस के नहीं आने से उसके विरुद्ध एकपक्षीय कार्यवाही का आदेश दिया गया व इसी बीच एक प्रार्थना-पत्र कर्मकार की मृत्यु हो जाने उसके विधिक प्रतिनिधि द्वारा दिनांक 23/7/12 को उन्हें कायममुकाम बनाये जाने बाबत पेश किया गया । उस प्रार्थना-पत्र को आज एक पृथक आदेश से निस्तारण किया गया एवं आदेशानुसार वह प्रार्थना-पत्र कायममुकाम बनाये जाने बाबत खारिज किया गया ।

5. चूंकि कर्मकार की मृत्यु हो चुकी है तथा उसके वारिसान द्वारा उन्हें कायममुकाम बनाये जाने का प्रार्थना-पत्र भी खारिज कर दिया गया है, अतः ऐसी परिस्थिति में प्रकरण एक प्रकार से निष्प्रभावी हो जाता है एवं ऐसे में कोई अनुतोष दिया जाना संभव नहीं है एवं रेफ्रेंस भी इसी अनुरूप उत्तरति होने योग्य है ।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश क्र. एल-29012/47/2007 के आईआर-(एम) दिनांक 4/12/07 के जरिए सम्प्रेषित निर्देश/रेफ्रेंस को इसी प्रकार उत्तरित किया जाता है कि मामले में प्रार्थी कर्मकार भंवर सिंह की मृत्यु हो जाने व उसके वारिसान द्वारा कायममुकाम बनाए जाने का प्रार्थना-पत्र पृथक आदेश से खारिज कर दिए जाने से अब मामला निष्प्रभावी हो जाता है एवं ऐसे में कोई अनुतोष दिया जाना संभव नहीं है ।

प्रकाश चन्द्र पगारीया, न्यायाधीश